

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

V.

CRIMINAL CASE NO.
AMD-04-029

WILLIE MITCHELL,
SHELTON HARRIS,
SHELLY WAYNE MARTIN,
SHAWN GARDNER,

Defendants

VOLUME II OF XXXVII
Tuesday, September 16, 2008
Baltimore, Maryland

Before: Honorable Andre M. Davis, Judge
And a Jury

Appearances:

On Behalf of the Government:

Robert Harding, Esquire

Michael Hanlon, Esquire

On Behalf of Defendant Mitchell

Laura Kelsey Rhodes, Esqui

Michael E. Lawlor, Esquire

On Behalf of Defendant Har

Gerard P. Martin, Esquire

Paul Flannery, Esquire

On Behalf of Defendant Ma

Thomas L. Crowe, Esqui

James G. Pyne, Esquire

On Behalf of Defendant Ga

Adam H. Kurland, Esqui

Reported by:

Mary M. Zajac, RPR

Room 5515, U.S. Courthouse

101 West Lombard Street

Baltimore, Maryland 21201

1 (Proceedings at 9:34 a.m.)

2 THE COURT: The jury should be arriving presently,
3 counsel. Can we test those receivers?

4 (Pause in Proceedings.)

5 (Prospective jurors enter the courtroom.)

6 THE COURT: Ladies and gentlemen, good morning. We
7 trust you had a pleasant evening. Please acknowledge your
8 presence when I call your number. Juror Number One.

9 A JUROR: Present.

10 THE COURT: 11.

11 A JUROR: Present.

12 THE COURT: 14.

13 A JUROR: Present.

14 THE COURT: 19.

15 A JUROR: Present.

16 THE COURT: 21.

17 A JUROR: Present.

18 THE COURT: 31.

19 A JUROR: Present.

20 THE COURT: 32.

21 A JUROR: Present.

22 THE COURT: 39.

23 A JUROR: Present.

24 THE COURT: 67.

25 A JUROR: Present.

1 THE COURT: 70.

2 A JUROR: Present.

3 THE COURT: 73.

4 A JUROR: Present.

5 THE COURT: 77.

6 A JUROR: Present.

7 THE COURT: 83.

8 A JUROR: Present.

9 THE COURT: 84.

10 A JUROR: Present.

11 THE COURT: 87.

12 A JUROR: Present.

13 THE COURT: 90.

14 A JUROR: Present.

15 THE COURT: 101.

16 A JUROR: Present.

17 THE COURT: 102.

18 A JUROR: Present.

19 THE COURT: 108.

20 A JUROR: Present.

21 THE COURT: 134.

22 A JUROR: Present.

23 THE COURT: 136.

24 A JUROR: Present.

25 THE COURT: 142.

1 A JUROR: Present.

2 THE COURT: 143.

3 A JUROR: Present.

4 THE COURT: 144.

5 A JUROR: Present.

6 THE COURT: 145.

7 A JUROR: Present.

8 THE COURT: 152.

9 A JUROR: Present.

10 THE COURT: 156.

11 A JUROR: Present.

12 THE COURT: 163.

13 A JUROR: Present.

14 THE COURT: 168.

15 A JUROR: Present.

16 THE COURT: 176.

17 A JUROR: Present.

18 THE COURT: 186.

19 A JUROR: Present.

20 THE COURT: 187.

21 A JUROR: Present.

22 THE COURT: 195.

23 A JUROR: Present.

24 THE COURT: 207.

25 A JUROR: Present.

1 THE COURT: 213.

2 A JUROR: Present.

3 THE COURT: 215.

4 A JUROR: Present.

5 THE COURT: 244.

6 A JUROR: Present.

7 THE COURT: 249.

8 A JUROR: Present.

9 THE COURT: 258.

10 A JUROR: Present.

11 THE COURT: 263.

12 A JUROR: Present.

13 THE COURT: 264.

14 A JUROR: Present.

15 THE COURT: 281.

16 A JUROR: Present.

17 THE COURT: 282.

18 A JUROR: Present.

19 THE COURT: 290.

20 A JUROR: Present.

21 THE COURT: 299.

22 A JUROR: Present.

23 THE COURT: 303.

24 A JUROR: Present.

25 THE COURT: 308.

1 A JUROR: Present.

2 THE COURT: 313.

3 A JUROR: Present.

4 THE COURT: 314.

5 A JUROR: Present.

6 THE COURT: 315.

7 A JUROR: Present.

8 THE COURT: 330.

9 A JUROR: Present.

10 THE COURT: 331.

11 A JUROR: Present.

12 THE COURT: 334.

13 A JUROR: Present.

14 THE COURT: 340.

15 A JUROR: Present.

16 THE COURT: 343.

17 A JUROR: Present.

18 THE COURT: 366.

19 A JUROR: Present.

20 THE COURT: 367.

21 A JUROR: Present.

22 THE COURT: 373.

23 A JUROR: Present.

24 THE COURT: 374.

25 A JUROR: Present.

1 THE COURT: 379.

2 A JUROR: Present.

3 THE COURT: 380.

4 A JUROR: Present.

5 THE COURT: 383.

6 A JUROR: Present.

7 THE COURT: 386.

8 A JUROR: Present.

9 THE COURT: 387.

10 A JUROR: Present.

11 THE COURT: 389.

12 A JUROR: Present.

13 THE COURT: 399.

14 A JUROR: Present.

15 THE COURT: 400.

16 A JUROR: Present.

17 THE COURT: 402.

18 A JUROR: Present.

19 THE COURT: 407.

20 A JUROR: Present.

21 THE COURT: 410.

22 A JUROR: Present.

23 THE COURT: 413.

24 A JUROR: Present.

25 THE COURT: 415.

1 A JUROR: Present.

2 THE COURT: 427.

3 A JUROR: Present.

4 THE COURT: 432.

5 A JUROR: Present.

6 THE COURT: 439.

7 A JUROR: Present.

8 THE COURT: And 444.

9 A JUROR: Present.

10 THE COURT: Is there any juror present whose number I
11 did not call?

12 (No response.)

13 THE COURT: Excellent. Thank you, ladies and
14 gentlemen. Just a couple of additional questions before we begin
15 the individual voir dire.

16 First, I have a few additional names I should read to
17 you to see whether this is a person you might recognize or have
18 some familiarity with. Perhaps these names were read before but
19 we want to be sure that they are mentioned to you: Dwayne
20 Denham; Natasha Wyche; Tyesha Collins; and Jabria Payton.

21 The answer is none.

22 Please stand if you are aware or need to bring to my
23 attention any violation, intentional or unintentional, of any
24 instruction that I gave you on yesterday.

25 The answer is none.

1 Please stand if you have obtained any information
2 during the overnight recess from any source whatsoever other than
3 what you learned in the courtroom yesterday about this case.

4 The answer is none.

5 Thank you very much, ladies and gentlemen. So we will
6 now have the individual voir dire here at the bench. I would ask
7 that we start from the top, so that if you need to come and
8 answer further any questions that you answered yesterday, and
9 many of you stood in response to the question concerning whether
10 you or any close family member had been the victim of a crime,
11 charged with, or convicted of a crime, or spent time in a jail or
12 penal institution. There were also a number of you who stood,
13 indicating that you had some familiarity with the so-called Stop
14 Snitching video. And there were some of you who rose in response
15 to the question concerning whether any family member or close
16 personal friend had a history of or treatment for substance
17 abuse. I believe there may have been one or two other questions
18 where I indicated we would speak to you here at the bench.

19 So you will approach the bench one at a time, come down
20 the steps, and come between the table over here and the wall of
21 the jury box. Come around the witness stand right here and just
22 step up and get as close as you can get to this microphone
23 sitting here on the table.

24 When you arrive here, please give us your juror number.
25 And I will probably say to you, What would you like to tell us?

1 And so you'll be free to bring to our attention any information
2 that prompted you to rise yesterday in response to a question
3 where I told you we'd ask further questions here at the bench,
4 and you will be free to bring anything else to our attention that
5 has occurred to you over the overnight recess, perhaps some
6 question that was asked yesterday that you didn't respond to but
7 now you think maybe you should respond to. Again, if you're in
8 doubt, feel free to bring any and all information you think may
9 have a bearing on your ability to serve fairly and impartially as
10 a juror in this case.

11 After you've answered all our questions, it may be that
12 some of you will be excused, in which event you're free to leave.
13 But others of you will simply take your seat back in the gallery
14 wherever you choose.

15 Counsel, please approach.

16 (Bench conference on the record.)

17 THE COURT: Okay. I wonder if it's possible for all of
18 you to be to one side.

19 MS. RHODES: No.

20 THE COURT: Can we move a little more? In other words,
21 I'd like as best I can to keep this clear for the jurors to come
22 in and out.

23 MR. MARTIN: Going to be very hard for us to hear.

24 THE COURT: Yeah. Don't hesitate to ask to repeat
25 something. Okay? And I will basically repeat the answers for

1 counsel. Okay?

2 (End of bench conference.)

3 THE COURT: All right. Starting at the top, if you
4 need to come forward, please come forward at this time, starting
5 on the last row at the back. And what I suggest, as I suggested
6 yesterday, just form a line of about five, six, seven or eight
7 jurors at a time and come forward.

8 (Bench conference on the record:)

9 THE COURT: Speak into this microphone, please, ma'am.
10 Good morning. Your number?

11 A JUROR: 168.

12 THE COURT: 168? This is Juror 168. What would you
13 like to tell us?

14 A JUROR: About 17 years ago I was shot four times with
15 a .357 magnum due to drugs.

16 THE COURT: Was it a street crime or someone in your
17 home?

18 A JUROR: Someone came into my home and shot my husband
19 and I.

20 THE COURT: Was anyone ever prosecuted?

21 A JUROR: Yes.

22 MS. RHODES: I didn't hear the answer.

23 A JUROR: Yes.

24 THE COURT: Would this incident affect your ability to
25 serve as a juror in this case?

1 A JUROR: To be honest, I'm not sure. I don't know
2 what wound would be opened.

3 THE COURT: Yeah. It would probably be very difficult
4 for you.

5 A JUROR: Yes.

6 THE COURT: All right. We're going to excuse you,
7 ma'am. Thank you. Thank you for coming in. That was Juror 168,
8 who's been excused.

9 MR. MARTIN: If she's done, Your Honor, it doesn't
10 matter because I don't think Mr. Pyne and I heard anything she
11 said.

12 THE COURT: Your number?

13 A JUROR: 282.

14 THE COURT: Yes, sir. Just one moment. What would you
15 like to tell us, sir? I'm sorry?

16 MS. RHODES: Might be easier --

17 THE COURT: Okay.

18 A JUROR: I didn't recognize the names of the
19 defendants but over time I did realize I have read about this
20 trial. I did follow it when it happened. I read some recent
21 articles on what had happened recently here in the federal
22 courts. So I do --

23 THE COURT: Do you remember -- I'm sorry? Do you
24 remember what article you read?

25 A JUROR: I don't remember the publication. It was a

1 local one.

2 THE COURT: Was it a long --

3 A JUROR: It was a long article, talked about the
4 defense pleas and had tried in the --

5 THE COURT: Washington Monthly, perhaps?

6 A JUROR: Sounds correct. I don't know that for sure.
7 But it sounds familiar.

8 THE COURT: But it was within the last few weeks?

9 A JUROR: Within the last six months definitely.

10 THE COURT: Would your ability to serve as a juror be
11 affected by what you read and recall?

12 A JUROR: Honestly, I think it could very well be
13 affected.

14 THE COURT: Okay. All right. Thank you very much,
15 sir. You are excused. 282 is excused. We'll repeat what they
16 can't hear. Mr. Pyne reads lips. Good morning. Your number?

17 A JUROR: 90.

18 THE COURT: Yes, ma'am. Just a moment. What would you
19 like to tell us?

20 A JUROR: Just that I was sexually abused as a child.
21 You asked if there was a violent crime.

22 THE COURT: Someone in the family?

23 A JUROR: Yes, sir.

24 THE COURT: Was that person prosecuted?

25 A JUROR: Within the last three years. Yes, sir.

1 THE COURT: And did you testify at the trial?

2 A JUROR: No, I did not.

3 THE COURT: What is the status of the case?

4 A JUROR: He has been convicted and is, I guess, on
5 probation or what have you. He reports once a week, so forth.
6 No children, etc.

7 THE COURT: Where did this prosecution occur?

8 A JUROR: Here in Baltimore.

9 THE COURT: In state court?

10 A JUROR: Yes, sir.

11 THE COURT: What are your feelings about the entire
12 incident at this point?

13 A JUROR: I was a child, no fault of my own. He got
14 what he deserved, so forth. He has to live with that every day,
15 not me.

16 THE COURT: Do you believe the matter was handled
17 appropriately by the authorities?

18 A JUROR: Absolutely.

19 THE COURT: How did it come to light?

20 A JUROR: Actually, I was the first. I'm the oldest.
21 But it happened to several of my younger and two of them came
22 forward. So that's why it took so long. By the time it came to
23 me, it was past statute. Way beyond.

24 THE COURT: I see. Would this affect your ability to
25 sever as a juror in this case?

1 A JUROR: No.

2 THE COURT: You could be fair to the defense?

3 A JUROR: Absolutely.

4 THE COURT: And the government?

5 A JUROR: Yes, sir.

6 THE COURT: Any questions, counsel? Thank you very
7 much.

8 MR. COBURN: I do. I'm so sorry, Your Honor. I do.

9 THE COURT: Go ahead.

10 MR. COBURN: The question is, given you went through
11 this terrible thing as a young person and given that there are
12 going to be victims that, there will be others in this case, do
13 you think that would affect your judgment in some way?

14 A JUROR: No.

15 MR. COBURN: Or do you think it would inflame you
16 emotionally during that it might be hard to do?

17 A JUROR: No. Because I dealt with it years ago. I've
18 been through the years of therapy that I no longer attend. It's
19 been a good, probably a good 15 years I was in therapy. I
20 accepted it. I was a child. I have no control of the situation.
21 You know.

22 THE COURT: Thank you very much.

23 MR. COBURN: Thank you, Your Honor.

24 THE COURT: Thank you very much. Good morning. Your
25 number?

1 A JUROR: 343.

2 THE COURT: 343. Yes, ma'am.

3 A JUROR: The one question you asked about, the
4 question that was asked about if any of my family was a victim of
5 a crime. My grandmother's house was broken into a couple weeks
6 ago.

7 THE COURT: Has anybody been arrested?

8 A JUROR: No.

9 THE COURT: Was anyone injured?

10 A JUROR: No. Nobody was there.

11 THE COURT: Where was this?

12 A JUROR: In Hagerstown.

13 THE COURT: Have the police investigated as best they
14 could, you think?

15 A JUROR: As best as, yeah. As best as they're going
16 to do, yes.

17 THE COURT: I understand. Would this affect your
18 ability to serve as a juror?

19 A JUROR: No.

20 THE COURT: Thank you very much.

21 A JUROR: Thank you.

22 MR. MARTIN: I wrote something about drug question.

23 THE COURT: All right. We'll have her come back.

24 (Open court:)

25 THE COURT: Juror 343, would you come back, please?

1 (Proceedings at the bench:)

2 THE COURT: All right. Yes, ma'am. Good morning.

3 Your number?

4 A JUROR: Good morning. 383.

5 THE COURT: Yes, ma'am, what would you like to tell us?

6 A JUROR: With regard to the video.

7 THE COURT: Yes. Stop Snitching video?

8 A JUROR: Yes. I heard something in the news recently.

9 I want to say about six months ago. I don't know exactly what
10 the video is about. But I knew there were some arrests being
11 made in Baltimore and people were being threatened, things of
12 that sort. But I don't know exactly what the video is about.

13 THE COURT: All right. Now, yesterday I asked whether
14 you would be affected if one of the defendants in this case was
15 shown to be involved in the Stop Snitching video. Given all that
16 you've learned about this case and whatever you can recall about
17 the Stop Snitching video, would that affect your ability to be
18 fair and impartial in judging the evidence in this case?

19 A JUROR: No. I don't believe it would.

20 THE COURT: You've never seen the Stop Snitching video?

21 A JUROR: No, I haven't seen it.

22 THE COURT: And it sounds like your recollection is
23 rather vague in any event.

24 A JUROR: Yes.

25 THE COURT: All right. Thank you very much.

1 MR. HARDING: Judge, could I make one point?

2 THE COURT: Certainly. Just one minute, ma'am.

3 MR. HARDING: Judge, it's actually only the Stop
4 Snitching II video is at issue in this case.

5 THE COURT: I understand that.

6 MR. HARDING: Also --

7 THE COURT: I didn't want to try to parse it that
8 finely.

9 MR. HARDING: Okay. You also have asked about other
10 people who were involved in the Stop Snitching video. Of course,
11 the defendant or two who was involved in this case was on a cell
12 phone for only a few minutes, couldn't possibly have had anything
13 to do with the production of the Stop Snitching video.

14 THE COURT: Understood. That's why I used the term
15 "involved."

16 MR. HARDING: Okay.

17 THE COURT: If it's his voice, he's involved in making
18 a video. That's why I've articulated it that way.

19 A JUROR: Sorry. I'm nervous. 343. About the drug
20 addiction. I do have drug abuse in my family. And when I was a
21 teenager, I was in an out-patient program when I was about 15
22 for, I wasn't addicted to anything but it was more of a
23 counseling.

24 THE COURT: What substances were you using at that
25 time?

1 A JUROR: Marijuana, Ecstasy, acid.

2 THE COURT: And so how many years ago would that have
3 been?

4 A JUROR: About seven.

5 THE COURT: About seven years? And what is your status
6 now with respect to substance abuse?

7 A JUROR: I'm clean.

8 THE COURT: And what family members --

9 A JUROR: My father. He smoked crack and he was an
10 alcoholic.

11 THE COURT: Was he ever prosecuted for his drug
12 activity?

13 A JUROR: I think. I don't really talk to him. But
14 I'm pretty sure that he did go to jail back in the late '80s for
15 it. But he's fine now.

16 THE COURT: Do you have contact with him now?

17 A JUROR: Maybe every few months.

18 THE COURT: I see. Would any of this affect your
19 ability to serve as a juror?

20 A JUROR: No.

21 THE COURT: As you'll recall, this case involves
22 allegations and evidence of drug distribution activities,
23 including crack cocaine and heroin. This would not affect your
24 ability to be fair and impartial?

25 A JUROR: No.

1 THE COURT: Any doubt in your mind about that?

2 A JUROR: No.

3 THE COURT: All right. Thank you very much.

4 A JUROR: Thank you.

5 THE COURT: Nice catch, Mr. Martin. Good morning. Your
6 number?

7 A JUROR: 70.

8 THE COURT: Seven-zero?

9 A JUROR: Yes.

10 THE COURT: All right. What would you like to tell us?
11 Which question?

12 A JUROR: You asked about, were we familiar with the
13 Stop Snitching video.

14 THE COURT: Yes.

15 A JUROR: I was familiar from the news because, of
16 course, they publicized that Carmelo Anthony was in it. I never
17 saw the video. Heard information on the news. You asked if a
18 family member had drug treatment for --

19 THE COURT: Substance abuse.

20 A JUROR: Right. My half brother did. Well, my
21 brother. He did years ago.

22 THE COURT: But not presently, as far as you know?

23 A JUROR: No.

24 THE COURT: What substance was he abusing?

25 A JUROR: I couldn't even tell you. We aren't that

1 close.

2 THE COURT: All right. Now, as to the video, would the
3 information you have about it from the news, and Carmelo
4 Anthony's involvement in its production, affect your ability to
5 serve as a juror?

6 A JUROR: No. Because I didn't see it.

7 THE COURT: Now, what if there were a second Stop
8 Snitching video? Would that change your opinion at all?

9 A JUROR: No, because I really don't even, I really
10 don't even believe the video. I just think like the people
11 probably in it are there to just be seen.

12 THE COURT: All right. And what about your brother's
13 substance abuse? Would that affect your ability to serve as a
14 juror?

15 A JUROR: No.

16 THE COURT: Any concerns about that at all?

17 A JUROR: No.

18 THE COURT: All right.

19 MS. RHODES: I have a question.

20 THE COURT: Yes. Step forward, Ms. Rhodes.

21 MS. RHODES: You mentioned before that your spouse was
22 a correctional officer?

23 A JUROR: Yes.

24 MS. RHODES: Where is that? What facility?

25 A JUROR: Central Booking.

1 MS. RHODES: And how long has he been working there?

2 A JUROR: Eight years.

3 THE COURT: The juror's spouse has been working at
4 Central Booking for about eight years. All right. Thank you
5 very much. You may be seated.

6 Good morning. Your number?

7 A JUROR: 432.

8 THE COURT: 432. Which question, sir?

9 A JUROR: Victim of a crime. Had my wallet stolen a
10 couple years ago.

11 THE COURT: Was it a street robbery or --

12 A JUROR: Pickpocket.

13 THE COURT: Pickpocket where?

14 A JUROR: Florence, Italy.

15 THE COURT: I hear that happens a lot there.

16 MR. MARTIN: It actually happened to me, Your Honor.
17 It actually happened to me last summer.

18 THE COURT: Yeah. Very common. Never recovered it?

19 A JUROR: No.

20 THE COURT: Would this affect your ability to serve as
21 a juror?

22 A JUROR: No.

23 THE COURT: You don't hold it against Italy, I hope?

24 A JUROR: No.

25 THE COURT: Thank you very much. Yes, sir. I think

1 it's the pickpocket capital of the world.

2 MR. MARTIN: Absolutely. If that's not, Naples is.

3 THE COURT: Good morning. Your number?

4 A JUROR: 308.

5 THE COURT: 308. Yes, sir. Which question?

6 A JUROR: Pertaining to the snitching.

7 THE COURT: Stop Snitching video. Yes.

8 A JUROR: I heard a statement on the news about Carmelo
9 Anthony.

10 THE COURT: All right.

11 A JUROR: Some men --

12 THE COURT: Have you ever seen it?

13 A JUROR: No, sir.

14 THE COURT: And other than this report on the news,
15 have you had any discussions about it or --

16 A JUROR: No.

17 THE COURT: -- concerns about it?

18 A JUROR: No, sir.

19 THE COURT: Would it concern you if there was a second
20 Stop Snitching video?

21 A JUROR: No.

22 THE COURT: So you could be fair to the government and
23 to the defendants in this case?

24 A JUROR: Yes, sir.

25 THE COURT: Thank you very much. Anything else?

1 A JUROR: No, sir.

2 THE COURT: All right. Thank you.

3 Good morning. Your number?

4 A JUROR: 101.

5 THE COURT: Yes, sir.

6 A JUROR: Two things that I stood up for. My oldest
7 and my youngest son have both done jail time for driving related,
8 DUI's, driving on suspended license.

9 THE COURT: How are they doing now?

10 A JUROR: They're fine. Actually, one just got out a
11 few months ago, but he's got a new job. He's doing great. Just
12 did his GED's so he's doing very well.

13 THE COURT: Do you believe that they were treated
14 fairly in connection with their arrest and prosecution?

15 A JUROR: Oh, yes.

16 THE COURT: Did you help them hire a lawyer and so
17 forth?

18 A JUROR: Yes.

19 THE COURT: Did you attend the trial?

20 A JUROR: No.

21 THE COURT: But you do believe they were treated
22 fairly?

23 A JUROR: Oh, absolutely.

24 THE COURT: Would either son's circumstances affect
25 your ability to serve as a juror?

1 A JUROR: No.

2 THE COURT: Thank you. Next.

3 MR. MARTIN: One other question. He had answered
4 another question.

5 THE COURT: Yes.

6 A JUROR: Yes. There was an unfortunate incident with
7 neighbors of mine, semi-decent friends. They were an engaged
8 couple about four years ago. We went out for a night of fun.
9 They got into an argument. They came home. Somehow a fight
10 ensued and he wound up shooting her. So kind of lost one of my
11 friends to jail and one of my friends to death.

12 THE COURT: He actually killed her?

13 A JUROR: Yeah. He wound up -- there was no trial.
14 Fortunately, he pled to, I think he got manslaughter for ten
15 years.

16 THE COURT: Alcohol was involved?

17 A JUROR: Alcohol. He was a former alcoholic. He told
18 me he had gotten over it. But they were doing some serious
19 drinking that night.

20 THE COURT: Where did this occur?

21 A JUROR: Frederick County.

22 THE COURT: How long ago was it?

23 A JUROR: Between four, four and a half years ago.

24 THE COURT: Did you attend the trial or help him hire a
25 lawyer?

1 A JUROR: There was no trial. He wound up pleading
2 out. I spent pretty much the entire night, when it happened,
3 talking to police. Trying to help calm him down. Making sure my
4 son who actually ran over to the house when I told him not to,
5 didn't see too much.

6 THE COURT: This was literally next door to you?

7 A JUROR: I live in a townhouse this way. They live in
8 a townhouse this way. He actually, five minutes after it
9 happened, ran into my house, used my phone, said, She's dead,
10 she's dead. So I wound up going over to check on her, noticed
11 the blood stain on the top of the head, and checked her wrist for
12 a pulse.

13 THE COURT: Must have been very traumatic.

14 A JUROR: Well, 12:00 we were dancing. 2:00 in the
15 morning I'm checking her wrist for a pulse. It was kind of a
16 strange, strange night.

17 THE COURT: How long had they been friends?

18 A JUROR: They were engaged for many years.

19 THE COURT: I mean friends of yours.

20 A JUROR: They moved in about six years before that.
21 It was more of a casual, because I'm kind of an in house,
22 homebody kind of person. So we'd go out, grab a beer, something
23 like that.

24 THE COURT: Were you aware that he had a firearm in the
25 house?

1 A JUROR: I had an idea, yeah. He had talked about it,
2 a gun that he kept upstairs. Evidently, I didn't know he always
3 kept it loaded. But it was loaded. He brought it downstairs.
4 Somehow they fought. I don't know the exact facts. I wasn't
5 there.

6 THE COURT: Is he still serving a sentence?

7 A JUROR: He is, yeah. I haven't heard anything. I
8 didn't go to anything for him. I said, no, made a choice,
9 whatever.

10 THE COURT: You have not visited him?

11 A JUROR: I haven't had any contact since that night.

12 THE COURT: Is he in prison out near Hagerstown?

13 A JUROR: I believe so. I'm not even sure where he
14 went to. I just kind of distanced myself from it and went to the
15 funeral for her, and that was about it.

16 THE COURT: Did any of his or her family in any way,
17 when they learned that you had been out with them that night,
18 blame you or find fault with you?

19 A JUROR: No. Actually, it was a group of us. And his
20 sister was among, I wound up actually having to use his cell
21 phone that night to call her to come over to help calm things
22 down. They were actually very supportive. I went to the
23 funeral. Embrace and thank me for whatever, that kind of thing.

24 THE COURT: I see. So would any of this affect your
25 ability to serve?

1 A JUROR: It was an unfortunate incident but that was
2 this, totally separate.

3 THE COURT: The evidence in this case, I believe, will
4 be that the five people I've mentioned were all shot with
5 handguns. Would this affect your ability to judge the evidence
6 fairly?

7 A JUROR: No, sir. Unfortunately. Separate incidents,
8 separate people.

9 THE COURT: All right. Thank you very much.

10 MS. RHODES: Your Honor, I had wanted --

11 THE COURT: Ms. Rhodes, you are a key Washingtonian.
12 Good morning. Your number?

13 A JUROR: 314.

14 THE COURT: 314. Yes, ma'am. Which question?

15 A JUROR: You asked if we would have any --

16 THE COURT: Can you speak up, please.

17 A JUROR: You asked if we had any personal friends who
18 were murdered.

19 THE COURT: Yes.

20 A JUROR: Victims.

21 THE COURT: Yes.

22 A JUROR: I have two friends' mothers were murdered.
23 One was stabbed to death, one was shot to death.

24 THE COURT: Separate incidents?

25 A JUROR: Yes.

1 THE COURT: What years? What dates? How far back?

2 A JUROR: I was a teenager.

3 THE COURT: You were a teenager for both?

4 A JUROR: Twenty years.

5 THE COURT: Were they close by neighbors or school
6 friends?

7 A JUROR: One was, one of the mother was our adviser,
8 choir adviser.

9 THE COURT: Speak up, please.

10 A JUROR: I'm sorry.

11 THE COURT: One of the mothers --

12 A JUROR: One of the mothers was our choir adviser.

13 THE COURT: At church. And were each, which, if either
14 of these, was a domestic situation with someone who lived with
15 them?

16 A JUROR: One could be considered domestic, yes.

17 THE COURT: Okay. And the other one? What was it?

18 A JUROR: Well, it was never solved. But I guess
19 they're thinking it was a break-in or whatever. They suspect it
20 could have been related to drugs. But I'm not really certain
21 about that. But the one that was stabbed to death was never
22 solved.

23 THE COURT: Would either of these incidents affect your
24 ability to serve as a juror in this case?

25 A JUROR: I would like to believe they wouldn't.

1 THE COURT: But it would be difficult?

2 A JUROR: Because I've already developed some opinions,
3 I can't be 100% certain. I would like to think I could be
4 impartial.

5 THE COURT: Opinions about what?

6 A JUROR: About this case. About the defendants. I
7 don't know any information about them.

8 THE COURT: You understand the presumption of
9 innocence?

10 A JUROR: Right.

11 THE COURT: But you're struggling with that?

12 A JUROR: Right.

13 THE COURT: All right. Under the circumstances, we're
14 going to excuse you from service. Thank you very much for
15 coming. Juror Number 314 is excused.

16 Good morning. Your number?

17 A JUROR: 389.

18 THE COURT: Which question, sir?

19 A JUROR: Actually two. Back in the mid '80s, I was
20 arrested once for DUI in Anne Arundel County.

21 THE COURT: And how did the system handle the case?

22 A JUROR: I was given probation before judgment and I
23 was told that if I ever did it again, it would eventually be
24 points on my record.

25 THE COURT: Did you feel at that time that you had a

1 drinking problem or was it one of those incidents where you
2 -just.

3 A JUROR: I just started a new job and went out with
4 the people at the place of work.

5 THE COURT: Was the officer polite and courteous?

6 A JUROR: Yes.

7 THE COURT: Do you believe you were treated fairly?

8 A JUROR: Yes. I was actually pulled over on the side
9 of the road. I realized I was kind of drunk.

10 THE COURT: I see. And the officer pulled up behind
11 you to see what was going on?

12 A JUROR: Yes.

13 THE COURT: So would this affect your ability to serve
14 as a juror?

15 A JUROR: No.

16 THE COURT: All right. And the other question?

17 A JUROR: Was on the Stop Snitching video.

18 THE COURT: Yes.

19 A JUROR: I just remember reading about it. I think it
20 was it. I remember reading in the sports pages because Carmelo
21 Anthony's name was mentioned with it. I never saw it or
22 anything.

23 THE COURT: Would this affect your ability to serve as
24 a juror?

25 A JUROR: No.

1 THE COURT: And what if there was a second Stop
2 Snitching video that perhaps one of the defendants might have
3 been involved in? Would that affect your ability to serve?

4 A JUROR: No.

5 THE COURT: Any question about that?

6 A JUROR: No.

7 THE COURT: Thank you very much. Good morning. Your
8 number?

9 A JUROR: 87.

10 THE COURT: All right. Would you speak up a little
11 louder, please?

12 A JUROR: Sure.

13 THE COURT: All right. Juror Number 87. Which
14 questions are you responding to?

15 A JUROR: Family members that maybe have a drug
16 problem, maybe.

17 THE COURT: All right.

18 A JUROR: A cousin who was addicted to crack cocaine.
19 He entered a rehab program and he's just now celebrating his one
20 year sobriety.

21 THE COURT: Excellent. Great. For how long, if you
22 know, was he involved with substance abuse?

23 A JUROR: I'd say maybe about a year. But maybe six
24 months --

25 THE COURT: And how old is he?

1 A JUROR: He is 36.

2 THE COURT: And where does he live?

3 A JUROR: In Baltimore City.

4 THE COURT: All right. So did he, was it like an
5 intervention or did he go on his own or was he caught up in the
6 criminal justice system as a result of his substance abuse?

7 A JUROR: No. It was a little bit of family
8 intervention.

9 THE COURT: Family intervention.

10 A JUROR: Like my cousin and I would drive and find his
11 car and we'd put the lock on the steering wheel so he couldn't
12 drive, things like that. And then we told him, you know, if you
13 drive the truck, we're going to call the police.

14 THE COURT: Is he working?

15 A JUROR: He is. He's working, actually. He was just
16 promoted as a foreman.

17 THE COURT: And do you see him frequently?

18 A JUROR: Yes.

19 THE COURT: And he's doing well?

20 A JUROR: Very well.

21 THE COURT: Would this affect your ability to serve as
22 a juror?

23 A JUROR: No.

24 THE COURT: Thank you.

25 A JUROR: I also wanted to give additional information.

1 I don't know if this affects anything. But yesterday I mentioned
2 my involvement with House of Ruth.

3 THE COURT: Yes.

4 A JUROR: I also have a cousin who works there. She is
5 involved with, it's a men's program. It's an outreach program
6 called Gateway project. She counsels the men who have been
7 charged.

8 THE COURT: Charged.

9 A JUROR: Charged. Right. And a lot of times the
10 judges will assign them to go to counseling.

11 THE COURT: Of course. Would that affect your ability
12 to be fair?

13 A JUROR: No.

14 THE COURT: Thank you very much.

15 A JUROR: Thank you.

16 THE COURT: Good morning. Would you move over, please,
17 and speak into the mike? And try to keep your voice up. Your
18 number?

19 A JUROR: 83.

20 THE COURT: 83? Which questions are you here for?

21 A JUROR: First, I just found out that my company will
22 not pay for more than a week.

23 THE COURT: More than a week.

24 A JUROR: Yes. Which is going to really be a hardship
25 on me.

1 THE COURT: You just found that out last evening?

2 A JUROR: Yes.

3 THE COURT: All right. We're going to excuse you for
4 cause.

5 A JUROR: Thank you.

6 THE COURT: Thank you. Good luck. 83 is excused.
7 Good morning. Your number?

8 A JUROR: 402.

9 THE COURT: 402.

10 A JUROR: Uh-huh.

11 THE COURT: Which questions are you going to tell us
12 about?

13 A JUROR: Well, I stood up about the Stop Snitching
14 video.

15 THE COURT: Yes.

16 A JUROR: I really never had any interest in it. My
17 stepson talked about it. It was like a controversial rap video
18 or something.

19 THE COURT: I see. You never saw it?

20 A JUROR: No.

21 THE COURT: Do you know who's in it?

22 A JUROR: No. No. I don't have any interest in it,
23 really.

24 THE COURT: I see.

25 A JUROR: My son is. But I don't really pay no

1 attention to it, to tell you the truth. I just really thought it
2 was like a rap video, a music or something.

3 THE COURT: What kind of discussions have you had with
4 your son about it?

5 A JUROR: I ain't had no discussions with him. I heard
6 him talking with his friends when they come over my house
7 sometimes.

8 THE COURT: You have limited knowledge. Would it
9 affect your ability to serve as a juror in this case?

10 A JUROR: No, absolutely not.

11 THE COURT: What if there were a second Stop Snitching
12 video?

13 A JUROR: What was that?

14 THE COURT: A second video that has been produced?

15 A JUROR: I have no --

16 THE COURT: Other than the first one.

17 A JUROR: No. I have no idea about it.

18 THE COURT: Would it affect your ability to serve?

19 A JUROR: No.

20 THE COURT: All right. Thank you very much.

21 MR. MARTIN: Your Honor, I think he also stood up for
22 the criminal justice.

23 THE COURT: Sir.

24 MR. MARTIN: Questions about crimes.

25 THE COURT: Did you have any additional information to

1 tell us? Any feelings about the criminal justice system or
2 prosecution of crimes?

3 MR. MARTIN: Interaction with.

4 A JUROR: No.

5 THE COURT: Okay. Thank you.

6 MR. MARTIN: I wrote it down.

7 MR. HARDING: I did, too, Your Honor. Had to do with,
8 Your Honor asked a question about guns.

9 MR. COBURN: I think it was actually the three-part
10 question.

11 MR. HARDING: I have him specifically on guns.

12 THE COURT: I'm sorry. Well, he's disclaimed. Good
13 morning.

14 A JUROR: Good morning.

15 THE COURT: Please move as close as you can and keep
16 your voice up. Your number?

17 A JUROR: 263.

18 THE COURT: 263. Which questions do you need to talk
19 to us about?

20 A JUROR: Anyone in your family with a history of drug
21 addiction.

22 THE COURT: Yes.

23 A JUROR: My aunt has been suffering with addiction for
24 the past ten years at least.

25 THE COURT: Your aunt has been suffering? And what

1 substance?

2 A JUROR: I believe it's crack. Possibly cocaine.

3 THE COURT: Possibly cocaine and --

4 A JUROR: Yes.

5 THE COURT: And perhaps crack?

6 A JUROR: Yes.

7 THE COURT: This is your mother's sister or --

8 A JUROR: No, father's sister.

9 THE COURT: Father's sister? She here in Baltimore?

10 A JUROR: No. She's in Virginia.

11 THE COURT: Do you see her frequently?

12 A JUROR: Whenever I go down, yes.

13 THE COURT: Has she gotten involved in the criminal
14 justice system as a result?

15 A JUROR: At some times. I don't think it's anything
16 major, though. Been little minor, like driving violation, that
17 type of thing.

18 THE COURT: She's been involved in the criminal justice
19 system through driving violations but never for distribution of
20 drugs?

21 A JUROR: Not that I'm aware of.

22 THE COURT: When's the last time you saw her? Try to
23 keep your voice up, please.

24 A JUROR: A few months ago. June. June.

25 THE COURT: Was it a family outing or something?

1 A JUROR: Yes. It was a graduation.

2 THE COURT: And from your observation, could you tell
3 that she was high or getting high or still abusing drugs?

4 A JUROR: She still is abusing.

5 THE COURT: And this is discussed within the family?

6 A JUROR: Yes.

7 THE COURT: Has anyone tried to get her help?

8 A JUROR: She has tried. She's gone away and tried to
9 get clean in other states but has ended up leaving the program.

10 THE COURT: So she's walked away from drug treatment
11 programs?

12 A JUROR: Yes.

13 THE COURT: How, if at all, might this affect your
14 ability to serve as a juror in this case?

15 A JUROR: I think I could still be objective.

16 THE COURT: You wouldn't, you wouldn't find it
17 difficult to be fair if there's evidence here that the defendants
18 were involved in drug distribution, including crack?

19 A JUROR: I don't think so.

20 THE COURT: You could put that aside?

21 A JUROR: Um-hum.

22 THE COURT: Any question in your mind about that?

23 A JUROR: No.

24 THE COURT: Any questions, counsel? Please step
25 closer.

1 MS. RHODES: Where you work is listed as --

2 A JUROR: It's a management company. We handle
3 appraisals, titles, closings.

4 MS. RHODES: Okay.

5 MR. MARTIN: Your Honor, I think you also responded to
6 a question about shooting?

7 A JUROR: Yes. A close friend of mine was shot. My
8 cousin was also shot in Virginia in a semi gang related issue.
9 He was also in a, I guess you can call it a gang. But it's in
10 Virginia so I don't know --

11 THE COURT: Is this the same cousin?

12 A JUROR: No. That's my aunt.

13 THE COURT: Oh, your aunt. I'm sorry. A different
14 cousin?

15 A JUROR: Um-hum.

16 THE COURT: Is that cousin related to your aunt?

17 A JUROR: Yes.

18 THE COURT: So it sounds like --

19 A JUROR: It's my first cousin.

20 THE COURT: First cousin. So it sounds like your aunt
21 uses crack and your cousin may be involved in the drug business
22 in Virginia.

23 A JUROR: Possibly.

24 THE COURT: But it also sounds like you have limited
25 knowledge of it?

1 A JUROR: Yeah. I don't have a lot of information.
2 Only what I hear from my grandmother. Only what I may see when I
3 go to Virginia. My cousin, my other cousin, is first cousin as
4 well, he's currently incarcerated for murder.

5 THE COURT: When did that occur?

6 A JUROR: About four years ago.

7 THE COURT: And is it your belief that that's drug
8 related?

9 A JUROR: I'm not sure.

10 THE COURT: Who was the victim in the murder? Do you
11 know?

12 A JUROR: It was someone in the neighborhood.

13 THE COURT: But you don't know what gave rise? Was it
14 a shooting?

15 A JUROR: Yeah. It was a shooting.

16 THE COURT: But you don't know whether it was a drug
17 fight or --

18 A JUROR: No. I don't know what it was about.

19 THE COURT: Have you visited this person?

20 A JUROR: Have I visited him in jail? No.

21 THE COURT: Has he been convicted?

22 A JUROR: Yes.

23 THE COURT: Did you attend the trial?

24 A JUROR: No.

25 THE COURT: And what do you know about how it happened

1 and why it happened?

2 A JUROR: Just that he was hanging with the wrong crowd
3 of people. He got involved in something. And that there was a
4 shooting. He got shot. The individual that got killed, of
5 course, got shot.

6 He supposedly wasn't the individual who really did the
7 shooting but something, some mix-up with the hospital had him and
8 someone had the same name and they both got shot on the same day
9 and he's serving time right now. And we're looking into
10 appealing it.

11 THE COURT: So the appeals are still a possibility?

12 A JUROR: Yes.

13 THE COURT: Do you have an opinion about whether he was
14 treated fairly, your cousin, or unfairly?

15 A JUROR: Yes.

16 THE COURT: What is your opinion?

17 A JUROR: That he wasn't treated fairly. All of the
18 evidence wasn't brought out that should have been.

19 THE COURT: So it sounds like you, and I don't want to
20 put words in your mouth, but it seems like you did investigate
21 the matter or at least you talked to family members?

22 A JUROR: Yes.

23 THE COURT: Did you attend the trial?

24 A JUROR: No.

25 THE COURT: He did go to trial?

1 A JUROR: Yes, but in Virginia.

2 THE COURT: In Virginia. So I guess when you say you
3 don't think he was treated fairly, what's the basis for your
4 opinion?

5 A JUROR: Just from what I've heard from my grandmother
6 and my aunt, his mother. And then some of the information that
7 was in the paper about what happened. I had talked to him on the
8 phone.

9 THE COURT: Oh, you talked to him on the phone while he
10 was in the hospital or in jail?

11 A JUROR: While he's incarcerated, yes.

12 THE COURT: Incarcerated. So based on what he's told
13 you, you don't believe he's guilty of the murder?

14 A JUROR: I don't think so.

15 THE COURT: Even though he's been convicted?

16 A JUROR: Um-hum.

17 THE COURT: You to say yes or no.

18 A JUROR: Yes.

19 THE COURT: So what, if any, impact would any of this
20 have on your ability to be fair and impartial in this case?

21 A JUROR: I don't think one really doesn't have
22 anything to do with the other.

23 THE COURT: All right. Any questions, counsel?

24 MR. COBURN: No, Your Honor.

25 MR. MARTIN: No, Your Honor.

1 THE COURT: All right. Thank you. Good morning.

2 A JUROR: Good morning.

3 THE COURT: Please keep your voice up. Your number?

4 A JUROR: 244.

5 THE COURT: Yes, ma'am. What questions brought you
6 here?

7 A JUROR: It was someone I knew being charged with
8 something.

9 THE COURT: Yes.

10 A JUROR: I don't remember a whole lot about it. 25
11 years ago my boyfriend was, had an accident on the way home from
12 a dance and someone got killed. And he was charged with
13 vehicular something. But I'm not sure. But he was not -- he was
14 charged but not convicted.

15 THE COURT: Not convicted. Did you attend the trial?

16 A JUROR: Briefly, yes.

17 THE COURT: And what --

18 A JUROR: Because I was dating him at the time.

19 THE COURT: And what was your impression? Is he your
20 husband now?

21 A JUROR: Yes, he is, for 20 years.

22 THE COURT: What was your impression, what was your
23 impression, what is your impression about how the criminal
24 justice system worked in that incident?

25 A JUROR: I believe it works and I would like to keep

1 believing that but --

2 THE COURT: Okay. Do you believe he was treated
3 fairly, even in being charged?

4 A JUROR: Yes and no. I can see where they said, oh,
5 someone died, they had to do something. But then when everything
6 came out, I think they were, like I said, it was ages ago and we
7 hadn't even thought of it for years. Someone had brought up that
8 the gentleman that was killed jumped in front of the car because
9 he came off of a grass cliff.

10 THE COURT: Oh, I see. This was a pedestrian.

11 A JUROR: Yes. But he wasn't on the sidewalk or in the
12 street. He kind of leaped out.

13 THE COURT: I see. Where did this occur?

14 A JUROR: Harford Road.

15 THE COURT: Here in the city or out in Baltimore
16 County?

17 A JUROR: In the city.

18 THE COURT: Okay. And was it a jury trial?

19 A JUROR: I believe so, yes.

20 THE COURT: You believe it was a jury trial? And so
21 you believe the jury actually found not guilty?

22 A JUROR: Well, it was a hung jury.

23 THE COURT: Oh.

24 A JUROR: And I'm not sure what happened after that.

25 THE COURT: I see.

1 A JUROR: But he never went to trial again.

2 THE COURT: Apparently the charges were dismissed.

3 A JUROR: Yeah.

4 THE COURT: Okay. And he wasn't driving intoxicated or
5 anything like that?

6 A JUROR: No.

7 THE COURT: All right. So what, if any, impact might
8 this have on your ability to serve as a juror in this case?

9 A JUROR: None that I know of.

10 THE COURT: Sounds like you believe the system works?

11 A JUROR: Yes, I do.

12 THE COURT: All right. Thank you very much. Good
13 morning. Please speak into the mike and keep your voice up.
14 Your number?

15 A JUROR: 102.

16 THE COURT: Yes, ma'am. What questions bring you here
17 to us?

18 A JUROR: The one about the Stop Snitching video.

19 THE COURT: Stop Snitching. What do you know about
20 that?

21 A JUROR: I saw it on the news.

22 THE COURT: I'm sorry?

23 A JUROR: I saw it on the news.

24 THE COURT: So you saw a news report about it?

25 A JUROR: Yes.

1 THE COURT: And I guess some excerpts.

2 A JUROR: Yes.

3 THE COURT: How long ago was that? Do you recall?

4 A JUROR: It's been a while. Six months to a year.

5 THE COURT: And do you remember who's in it?

6 A JUROR: No, I have no idea.

7 THE COURT: Have you discussed it since then?

8 A JUROR: No.

9 THE COURT: Do you have an opinion about it?

10 A JUROR: Very little about it. It's more freedom of,
11 I mean, I know it's basically freedom of speech.

12 THE COURT: Freedom of speech kind of issue for you?

13 A JUROR: Yeah.

14 THE COURT: What if there were a second Stop Snitching
15 video? Would that affect your ability to serve as a juror here?

16 A JUROR: No.

17 THE COURT: What if one or more of the defendants were
18 involved in that second Stop Snitching video?

19 A JUROR: No.

20 THE COURT: You could be fair to the defense and to the
21 government?

22 A JUROR: Yes.

23 THE COURT: Okay. Is there anything else you need to
24 bring to our attention?

25 A JUROR: No. That's it.

1 THE COURT: Thank you. Good morning.

2 A JUROR: Good morning.

3 THE COURT: Please speak into the mike.

4 A JUROR: Number is 340.

5 THE COURT: Yes, sir.

6 A JUROR: And the only question I was up here for is I
7 was a victim of crime.

8 THE COURT: Yes.

9 A JUROR: It may be sort of minor. But at a gym
10 facility in Florida, they broke into my locker and stole
11 everything.

12 THE COURT: While you were working out?

13 A JUROR: Yes. My keys. My wallet.

14 THE COURT: They take your car?

15 A JUROR: No. I ran out. I found out. But I had --
16 no, they didn't get that. But they took everything else. I was
17 look 40 miles from home. So it made for a disastrous week. They
18 got my credit cards, the whole works.

19 THE COURT: Had to get the locks changed in your house?

20 A JUROR: I did not. It's that rural. And since it's
21 so rural, my address was a PO Box. So they really couldn't, I
22 don't think they'd trace it to my --

23 THE COURT: Anyone ever arrested?

24 A JUROR: No.

25 THE COURT: You reported it to the police?

1 A JUROR: Oh, yeah. To the Ocala Police Department.
2 But I guess it's not a serious crime or something.

3 THE COURT: You think it was somebody who also has a
4 membership at the gym?

5 A JUROR: That's what I told them. I said all they
6 need to do is an hour from my time --

7 THE COURT: Did they cut the lock off your locker?

8 A JUROR: No. They took the, just bent it over.

9 THE COURT: I see. It actually physically bent down.

10 A JUROR: Yes, sir.

11 THE COURT: I see. Would this affect your ability to
12 serve?

13 A JUROR: No. I don't believe so. But, sir, you also
14 mentioned that we can ask a question, if I may.

15 THE COURT: If you need clarification, yes.

16 A JUROR: Well, it's not. It's my own concern. I'm a
17 federal employee so there's no hardship because when I got the
18 notice eight weeks, ten weeks, they didn't say. And I do have a
19 root canal for Friday. But it's Friday and you said we don't
20 have session on Friday.

21 THE COURT: Correct.

22 A JUROR: But my question is where does my civic duty
23 kind of start and my job kind of, you know, my impact at work
24 kind of break off?

25 THE COURT: Well --

1 A JUROR: And that's, you know.

2 THE COURT: I'm confident that, I'm really confident
3 that every federal office, including military, with very few
4 exceptions, would want its employees to serve faithfully and
5 perform their civic responsibility as jurors. Very few cases
6 ever last 8, 10, 12 weeks. Every now and then there's a case
7 that takes four months or three months. But it's the federal
8 constitution that we are vindicating. And it would be the height
9 of hypocrisy for a supervisor in the federal system to say, no,
10 my task, my job is more important and so I want my employee not
11 to serve on jury duty. That's just my opinion.

12 So I appreciate your concern. It speaks well of you.
13 It really does.

14 What's your position?

15 A JUROR: I'm an engineer.

16 THE COURT: Okay. But you're not the only engineer.
17 You're probably the smartest engineer. But I'm confident -- I
18 mean that. I'm confident that they can find the human resources
19 to cover your responsibilities. And there will be days when
20 you'll be able to go in. Really. In fact, I didn't tell the
21 jury this, but there's one week in October, if the case lasts
22 that long, when we won't be in session at all.

23 A JUROR: You did mention it.

24 THE COURT: So you will have a whole week and you will
25 have Fridays and you will have days here and there to check in

1 with the office. And you will be able to call in at lunch time.
2 So your responsibilities will be covered. But I appreciate the
3 question. I appreciate your concern. Thank you very much.

4 A JUROR: Thank you.

5 THE COURT: Good morning.

6 A JUROR: Good morning.

7 THE COURT: Please speak into the mike and keep your
8 voice up. Your number?

9 A JUROR: 31.

10 THE COURT: Yes, sir. What questions bring you here?

11 A JUROR: Okay. A few of them. The first one about
12 knowing someone that's been shot. I work at a university and I
13 had one student that was shot and killed last year and a student
14 before that, the year before, was shot and wounded. Those are
15 students that I directly deal with. That's one thing. Then I've
16 been stabbed a couple times.

17 THE COURT: Okay. I think many of us will recall the
18 news reports of those students at Morgan getting shot. I don't
19 believe they were killed.

20 A JUROR: One was killed.

21 THE COURT: One was killed.

22 A JUROR: Yes.

23 THE COURT: And have there been arrests in that case?

24 A JUROR: I don't know.

25 THE COURT: When you say they were student you dealt

1 with, how did you deal with them?

2 A JUROR: The one that was killed was in my class.

3 THE COURT: I see.

4 A JUROR: And the one that was wounded was not in my
5 class but he and I worked in a summer program together. And I
6 would take him to New York, back and forth. Very close personal
7 contact.

8 THE COURT: I see. Have you been involved at all in
9 the investigation or interviewed by the police or anything of
10 that sort?

11 A JUROR: No.

12 THE COURT: Would this affect your ability to serve as
13 a juror?

14 A JUROR: No.

15 THE COURT: And you've been stabbed?

16 A JUROR: Right. That was a long time ago.

17 THE COURT: What was, what were the circumstances
18 surrounding that?

19 A JUROR: At a club and some kid stepped on my shoe or
20 something. And the next thing I knew he was stabbing me. So it
21 was not like any person that I knew or anything.

22 THE COURT: Were you -- how old were you,
23 approximately?

24 A JUROR: I was about 20 years old.

25 THE COURT: And where was this?

1 A JUROR: In New York.

2 THE COURT: In New York? And was anyone ever arrested?

3 A JUROR: I don't know.

4 THE COURT: Were the police called?

5 A JUROR: Oh, yes. I was, I was almost dead.

6 THE COURT: Oh, I see.

7 A JUROR: So yeah.

8 THE COURT: Was there no follow-up with you as the
9 victim?

10 A JUROR: No.

11 THE COURT: Do you think that was appropriate?

12 A JUROR: I just stayed away from it. I didn't go back
13 to that place any more.

14 THE COURT: Now, if there were evidence in this case of
15 a stabbing in a night club, would that affect your ability to be
16 fair and impartial? Would that bring back some bad memories?

17 A JUROR: It would definitely bring back bad memories.
18 But as far as being fair and impartial, I don't think it would
19 impact me there. But I know I would have my own feelings about
20 it.

21 THE COURT: What kind of feelings? Seems like a silly
22 question, but --

23 A JUROR: I haven't been there so I don't really know.

24 THE COURT: Okay. I think there will be evidence in
25 this case, in fact, that one of the defendants himself was

1 stabbed in a night club and that that played a role in some other
2 events that occurred. Or may have stabbed a person, actually, in
3 a night club. Would that affect your ability to be fair?

4 A JUROR: I don't think so.

5 THE COURT: You could sort of put your incident, your
6 own personal experience, put it aside and pay attention to the
7 evidence?

8 A JUROR: Absolutely.

9 THE COURT: Any doubt in your mind about that?

10 A JUROR: No.

11 THE COURT: Any questions, counsel?

12 MR. COBURN: No, Your Honor.

13 A JUROR: I had a couple other things. The Stop
14 Snitching video. Since I teach classes, that's a part our
15 conversation in the classes.

16 THE COURT: What do you teach?

17 A JUROR: Engineering, introduction to engineering.

18 THE COURT: Okay. And how do you talk about Stop
19 Snitching in engineering?

20 A JUROR: It's one of the things about community
21 involvement, responsibility, participating in the community. And
22 then students have to learn to be a part of the society. And
23 this is one of the things that's kind of antisocial behavior and
24 antisocial behavior does not reflect well and that kind of thing.

25 THE COURT: I see. Did you actually show the video for

1 the class?

2 A JUROR: No. I haven't seen the video. I just know
3 of it through, that's part of the discussion where the students
4 bring that up and they talk about it.

5 THE COURT: More than one class period when you
6 discussed it?

7 A JUROR: Yes. We do it about every year. I think
8 we've done it for the last three years.

9 THE COURT: I mean, in the course of a semester.

10 A JUROR: Just maybe two class periods.

11 THE COURT: Two classes where you talk about civic
12 responsibility and mature judgment and that kind of thing? So
13 you have an opinion about the Stop Snitching?

14 A JUROR: Yes.

15 THE COURT: And what is that opinion?

16 A JUROR: That it's antisocial. It's not adhering to
17 social responsibility and it's something that shouldn't be done.

18 THE COURT: All right. Now, yesterday you indicated by
19 not saying yes that, despite this opinion, your knowledge that
20 the defendants, one or more of the defendants might have been
21 involved in the Stop Snitching video wouldn't affect your ability
22 to serve as a juror.

23 A JUROR: Right. But I just wanted to be forthcoming
24 with it.

25 THE COURT: Sure. Oh, no, this is important. And what

1 if there were a second Stop Snitching video that one, one or more
2 of the defendants might have been involved in more recently?

3 A JUROR: My opinion would be my opinion. But I think
4 I could give fair, you know, judgment on it.

5 THE COURT: Pay attention to the evidence?

6 A JUROR: Right.

7 THE COURT: Follow the Court's instructions?

8 A JUROR: Yes.

9 THE COURT: Okay. Thank you very much, sir. Good
10 morning.

11 A JUROR: Good morning.

12 THE COURT: Speak into the mike.

13 A JUROR: 399.

14 THE COURT: Yes, sir. What would you like to tell us?
15 Which question?

16 A JUROR: The video.

17 THE COURT: Yes. What do you know about the Stop
18 Snitching?

19 A JUROR: Virtually nothing. I've seen it in the news
20 off and on.

21 THE COURT: Recently, have you seen it? Or sometime
22 ago?

23 A JUROR: I know it's maybe a couple of years ago.

24 THE COURT: I see. What if there were a second Stop
25 Snitching video more recently? Would that affect your ability to

1 serve as a juror?

2 A JUROR: No.

3 THE COURT: And if the defendants were involved in it,
4 would that impair your ability to be fair and impartial?

5 A JUROR: Not at all.

6 THE COURT: Okay. Thank you very much. Good morning.

7 A JUROR: Good morning. Juror 163.

8 THE COURT: Yes, sir. Which question?

9 A JUROR: Had to do with the knowledge of the Stop
10 Snitching video.

11 THE COURT: Yes.

12 A JUROR: I know, my knowledge of it comes from reading
13 the newspapers.

14 THE COURT: I see. Have you read anything recently?

15 A JUROR: Not at all.

16 THE COURT: Do you have an opinion about it?

17 A JUROR: I guess I have a lot of opinions about it.

18 They range from, first of all, my very strong belief that speech
19 is protected, just as innocence is protected until proven
20 otherwise. So I'm rather open about what people say. I'm more
21 concerned about what people do than what they say.

22 So I actually have to say that I kind of, I understand
23 that it's a tactic. I also understand that it may have been a
24 tactic that might have worked against the very people who had
25 other reasons for doing what they did. I have a kind of variety

1 of views about it.

2 THE COURT: When you describe it as a tactic, could you
3 elaborate?

4 A JUROR: It was clearly a tactic to keep people from
5 talking about what they knew with regard to what might be
6 considered criminal acts.

7 THE COURT: I see. If there were evidence of a second
8 Stop Snitching video of more recent vintage, would that affect
9 your ability to be fair and impartial?

10 A JUROR: I don't believe so. I think it's exactly the
11 same point. And that is that the speech is protected. We're
12 free to say what we believe. We're free to try to convince other
13 people of our beliefs. It's actually my words that I think
14 matter to me.

15 THE COURT: All right. Thank you very much.

16 A JUROR: You're welcome.

17 THE COURT: Good morning.

18 A JUROR: Good morning.

19 THE COURT: Your number?

20 A JUROR: 134.

21 THE COURT: Which questions bring you to us?

22 A JUROR: The one about the drug use and, also, the
23 Stop Snitching video.

24 THE COURT: Let's start with the Stop Snitching.

25 A JUROR: Okay. I'm familiar with it. I saw it on

1 television. Also saw excerpts of it in the newspaper, The Sun
2 newspaper. Also familiar with the controversy about Carmelo
3 Anthony, the basketball player, being in it. And also, I saw in
4 the newspaper about someone that was in the video was just
5 convicted of a crime.

6 THE COURT: I see.

7 MS. RHODES: I'm sorry. I didn't hear the last.

8 THE COURT: Someone in the video, the Stop Snitching
9 video was just convicted of a crime. So you, it sounds like you
10 sort of became familiar with it sometime ago and then more
11 recently you've seen some news reports.

12 A JUROR: Yes.

13 THE COURT: Would any of this affect your ability to
14 serve as a juror?

15 A JUROR: I don't believe so, sir.

16 THE COURT: What's the level of doubt about your
17 ability to put all that aside?

18 A JUROR: The fact that these people involved in this
19 case were in that video, I assume?

20 THE COURT: Well, there may be evidence that one or
21 more of them were involved in a more recent Stop Snitching video,
22 not the one that Carmelo Anthony may have been involved in, was
23 involved in. How would that affect you?

24 A JUROR: I'm not really sure.

25 THE COURT: Not sure? Let's see if we can find out

1 where your doubt is. How might it affect you?

2 A JUROR: Well, I would always recall that information.

3 THE COURT: All right. But would you use that
4 information against the defendants or would it simply be in your
5 mind?

6 A JUROR: It would just simply be in my mind.

7 THE COURT: Okay. The question is, can you be fair in
8 evaluating the evidence in this case? If the evidence convinced
9 you that they were involved in Stop Snitching, then you would be
10 entitled to consider that. But if you didn't believe they were
11 involved in it, it would be improper for you to let your
12 knowledge of Stop Snitching to influence your verdict in this
13 case.

14 A JUROR: I would say I could be impartial.

15 THE COURT: You could be impartial. Okay. There was
16 another matter?

17 A JUROR: Yes. The other matter was, when I first
18 moved to Maryland back in '94, I lived with my wife's brother.
19 And he was a drug addict and he was convicted and sentenced to
20 jail prior to me living with him. And I was under the belief he
21 was clean. Lived there for approximately six months. And just
22 recently he's been back on drugs and complications from the drug
23 use led to a coma and got dementia after that and died last
24 November.

25 THE COURT: What was his substance abuse? What

1 substance?

2 A JUROR: I believe it was cocaine.

3 THE COURT: Cocaine. So this is your brother-in-law?

4 A JUROR: Yes.

5 THE COURT: So --

6 A JUROR: It affected my wife pretty bad because her
7 sister passed away a year prior to that and she was rather young.

8 She was about 45, I believe. And he was in his forties, also.

9 THE COURT: I see. Where did you live with him?

10 A JUROR: In Owings Mills.

11 THE COURT: Owings Mills? How's your wife doing now?

12 A JUROR: She's dealing with it.

13 THE COURT: Is she in counseling --

14 A JUROR: No.

15 THE COURT: -- of any sort? Would this affect your
16 ability to serve as a juror?

17 A JUROR: I'm not sure, sir. I just know how it
18 affected her, really. Put her through a lot. I see how it
19 affected.

20 THE COURT: I don't want to put words or ideas in your
21 mind. But what I'm getting is that once your wife finds out that
22 you're on a jury involving people charged with drug distribution,
23 that could, that could create some tension, even between the two
24 of you. Again, I'm not a psychologist or a psychiatrist. But
25 I'm just trying to, if she has feelings about the fact that

1 people sold drugs to her brother, and ultimately it killed him.

2 Okay. I think on balance we probably should excuse you.

3 Frankly, I think you'd be a great juror in just about any case
4 but owing to your family circumstances and this history, I think
5 it would be asking you too much to struggle with your clear
6 desire to be fair and impartial with the experience that you and
7 your family have had to contend with.

8 So we're going to excuse you. Thank you very much.

9 That was Juror 108, who is excused.

10 MR. COBURN: I have him as 134, Your Honor.

11 THE COURT: I'm sorry. Thank you. Juror 134.

12 Good morning.

13 A JUROR: Good morning, your Honor.

14 THE COURT: Keep your voice up, please.

15 A JUROR: Juror 215.

16 THE COURT: 215?

17 A JUROR: Yes, sir.

18 THE COURT: What questions bring you to us?

19 A JUROR: First, I want to state that after thinking
20 about the list of names that you listed yesterday, I'm not an
21 avid boxing fan but Rahman does, I remember they talked about him
22 getting the lucky parts, is what they thought, so I'm familiar
23 with him.

24 THE COURT: Can I tell you how happy I am that you're
25 telling me that? I was so disappointed that not a single member

1 of the jury. We haven't had too many heavyweight champions from
2 Baltimore. Would the mention of his -- he's not going to be a
3 witness -- but would the mention of his name in any way affect
4 your ability to serve?

5 A JUROR: No.

6 THE COURT: He's not involved in this case other than
7 in the most peripheral kind of way.

8 A JUROR: No.

9 THE COURT: Okay.

10 A JUROR: The other issues were I did have a cousin,
11 many years ago who was an addict. I think a heroin addict. I'm
12 not sure. But it's been many, many years and I'm not that close
13 to her. But she had come off of that and been sober for probably
14 at least, if she's still sober, the last 10 or 15 years.

15 THE COURT: I see. So you haven't had any recent
16 contact?

17 A JUROR: No. My father's funeral two or three years
18 ago I saw her and she was still sober. And a productive citizen.

19 THE COURT: Okay. Would her experience or your
20 knowledge of it affect your ability to serve?

21 A JUROR: No.

22 THE COURT: All right.

23 A JUROR: The other issue is my younger brother, maybe
24 nine years ago this past summer, we don't know the extent of the
25 involvement, but we lived across from Druid Hill Park. So he

1 spent a lot of time on the street, Reisterstown Road, Gwynns
2 Falls, hanging out with the wrong crowd. He was at least smoking
3 marijuana. I don't know -- we believe he was probably selling as
4 well.

5 There were a couple of little groups in that area that
6 called themselves the R & G Crew or whatever. A couple of little
7 disputes there.

8 MS. RHODES: Called themselves what?

9 THE COURT: The R and G Crew.

10 A JUROR: Something to that effect. I don't know the
11 exact name. But I know it's the Reisterstown and Gwynns Falls
12 area.

13 THE COURT: Reisterstown and Gwynns Falls.

14 A JUROR: And he was incarcerated overnight for a gun
15 charge. And then he was subsequently, like I said, over nine
16 years ago, he was murdered, right on that strip.

17 THE COURT: How old was he at the time?

18 A JUROR: He was probably 18. 18 or 19.

19 THE COURT: Was it not long after he got released from
20 that overnight incarceration?

21 A JUROR: The two weren't connected. What they believe
22 happened was there was a hit put out on the individual that he
23 kept company with who was incarcerated at the time and engaged in
24 some individuals looking for this other person. An altercation
25 came out and a shoot-out happened and he was subsequently

1 murdered.

2 THE COURT: Was anyone ever apprehended, arrested?

3 A JUROR: To my knowledge, I don't know. I left home
4 to join the military. So I never did follow up with whether they
5 had gotten someone.

6 I did receive a call many years later, I think trying,
7 attempting to close an open case. That leads me to believe
8 that's quite possible they did at least find the weapon, but it
9 was at that time already evidence of another trial taking place
10 and there were other bodies that were on that weapon, is what we
11 were told.

12 THE COURT: I see. How old was your brother at the
13 time?

14 A JUROR: I think he was about 18.

15 THE COURT: 18.

16 MS. RHODES: What year was that?

17 A JUROR: This was over nine and a half years ago.

18 THE COURT: Nine to ten years ago. Is it still a topic
19 of discussion among family and friends?

20 A JUROR: My brother. I mean, it was her baby boy. So
21 every year on his birthday in the November time frame, you know,
22 they're having a conversation just about missing him, specific,
23 not about the circumstance in which he left us per se. But just,
24 you know, the fact that our baby, the baby in our family is no
25 longer with us.

1 THE COURT: Do you have other siblings?

2 A JUROR: I have an older brother. There was only
3 three of us.

4 THE COURT: Okay. Would this affect your ability to
5 serve as a juror?

6 A JUROR: I don't believe it would.

7 THE COURT: When you say "a hit", this sounds it was a
8 more or less --

9 A JUROR: The term that the officer, at the time a
10 detective, I believe, used talking to my mother was a contract, a
11 contract.

12 THE COURT: Contract.

13 A JUROR: Contract put out on this individual because
14 of some, something over a girl.

15 THE COURT: If there were evidence in this case that
16 certain killings or intended killings were described as a hit,
17 payments of money for a killing, would that affect your ability
18 to serve as a juror?

19 A JUROR: In reference to my life experience? No. But
20 if it's being brought in evidence, I'm supposed to consider that
21 as it stands.

22 THE COURT: Exactly.

23 A JUROR: That potential information. But just this
24 personal experience, no.

25 THE COURT: Would any of this personal history, which

1 we very much regret, of course, would that have any impact on
2 your ability, any negative impact on your ability to be fair and
3 impartial in this case?

4 A JUROR: I don't believe it would.

5 THE COURT: Any questions, counsel.

6 MR. COBURN: Your Honor, I think there was another
7 thing.

8 A JUROR: Yeah. In reference to the Stop Snitching
9 video. I have the same knowledge I would think anybody in
10 Baltimore who watches the news. And so that's just to the extent
11 of what they've shown. The information that Carmelo Anthony was,
12 subsequently received community service and some other issues
13 tied into that. That's the extent of my knowledge of that.

14 My feeling behind it is simply that whoever is involved
15 ought to be prosecuted and given their time in court for their,
16 their interaction with that. My understanding by your reading of
17 the indictment, it's not in this case.

18 THE COURT: Well, let me go over a little bit of that
19 with you. First of all, simply producing the video, of course,
20 is not a crime.

21 A JUROR: Okay.

22 THE COURT: We have a First Amendment. People can
23 produce videos, including videos of violence, like any movie.

24 A JUROR: Sure.

25 THE COURT: It may be a crime if a video is produced

1 and used in order to intimidate people.

2 A JUROR: I understand.

3 THE COURT: Or specific people from specific crimes.

4 Okay.

5 A JUROR: And I understand that. That's why I said
6 those individuals ought to deserve their portion in court for
7 whatever, whether they broke the law in their participation,
8 whatever part that took place. And I say that because that's
9 five years having been in the Army and having received some
10 security and law enforcement training, it's what we commonly call
11 domestic terrorism.

12 THE COURT: Okay.

13 A JUROR: They're using it that way, then they ought to
14 be penalized the same way any terrorist would be for using
15 terrorist tactics.

16 THE COURT: Okay. So it sounds like you understand the
17 difference between the use to which something is put.

18 A JUROR: Yes.

19 THE COURT: As opposed to the creation of something.

20 A JUROR: Yes.

21 THE COURT: Which is not, a creation of something is
22 not a crime.

23 A JUROR: No. It's all in context. I understand.

24 THE COURT: Now, what if there were a second Stop
25 Snitching video of more recent production, that the evidence

1 suggested in this case one or more of the defendants might have
2 been involved in?

3 A JUROR: Again, I mean, I would think at that point
4 you would give instructions as to how the evidence in that matter
5 is to be applied. And I think, because again, my understanding
6 is they are not being indicted for that, that's not what's being
7 tried. So I would look for you to tell me how the context of
8 what that piece of evidence is supposed to indicate for us.

9 THE COURT: Thank you very much. Mr. Coburn.

10 MR. COBURN: Thank you very much, Your Honor. I just
11 wonder, I think Your Honor asked a question relating to any
12 concerns and there were a few responses. Was that what you were
13 addressing?

14 A JUROR: No. What I was referencing in reference to
15 the R and G. We don't know to what extent. We do understand he
16 spent a lot time with a particular group. There were at least
17 two groups where we were physically living at the time, that at
18 times would be in conflict with one another.

19 I never, my little brother did the best his job to keep
20 that away from home but he felt in order to operate in a safe
21 environment, coming home, and school, in my growing up the gang
22 issue we had today is not what we had then. It was a much
23 smaller scale. So what involvement he had, I know he sold, after
24 he was murdered we found paraphernalia in our apartment complex
25 that were, I remember specifically a Gladloc bag of syringes, of

1 blue syringes and small, packages of small, what I guess they
2 would put small portions of drugs in, whether it was marijuana or
3 heroin, whatever it was, I don't know. But he kept material,
4 apparently, which we did not know about until he passed.

5 So my parents sort of had a hands off policy. The
6 reason we didn't always know exactly what he was doing. But he
7 told himself he was street smart enough not to bring it to the
8 doorstep. This is what we know.

9 THE COURT: All right.

10 MR. COBURN: With Your Honor's permission. I just want
11 to make inquiry about what you've told us about the fact that --

12 THE COURT: Louder, Mr. Coburn.

13 MR. COBURN: I'm sorry, Your Honor. Given what you
14 told us about what happened to your baby brother and given that
15 there was some concern that it could have been gang related, and
16 given, you know, what you indicated about the Stop Snitching
17 video being potentially, you know, kind of like terrorism,
18 domestic terrorism, I'm just wondering if, given what you know
19 about this case currently, I mean, do you have any concern that
20 hearing the evidence could produce some kind of emotional
21 reaction that might make it harder to exercise just kind of cold,
22 analytical judgment?

23 A JUROR: Again, I mean, I can't speak to what I will
24 do in that case. But now having to answer that question, I'll
25 say no because, I mean, I have, in reference to my brother and

1 our lives growing up in Baltimore, east and west Baltimore City,
2 it has made me what I am. And I'm a believer. And anything that
3 I deal with directly I take to God. I'm a Christian. Christ is
4 my solid rock. And so when my brother did that, I had to make a
5 decision. Am I going to be consumed with making sure people pay
6 and who did this or am I going to move on with my life.

7 And understand that my brother played a role in his
8 demise as well. His choices, which he didn't have to make, he
9 felt he had to make, he didn't have to make. We had a good,
10 strong family and a support system. I don't know if it's because
11 he had a son young. He had a child when he was 16. So maybe he
12 felt like that was the way he could put food in his mouth and
13 Hampers on his behind. I don't know. We tried to engage him
14 many times. But that was that.

15 So I don't harbor any bitterness. I'm not foolish
16 enough to put that on them. I don't know them from Adam. But if
17 you're saying that we're dealing so far into the future that you
18 have some concern that something might spark something in my mind
19 that makes me think that they had something to do with it --

20 MR. COBURN: I'm just wondering what you think about
21 it.

22 A JUROR: No. I honestly don't believe I would.

23 MS. RHODES: Could I have one?

24 THE COURT: Thank you very much.

25 MS. RHODES: Could I have one?

1 THE COURT: Briefly, Ms. Rhodes.

2 MS. RHODES: If there were evidence in this case that
3 similar crimes occurred around Reisterstown Road in the city and
4 that it was back in the '90s, in the late '90s, I gather that
5 your brother died in '99?

6 A JUROR: No. Because I left to go in '98 to the
7 military. Summer of '98. There was a couple months before my
8 daughter was born and she was born in April of '98.

9 MS. RHODES: Okay.

10 A JUROR: So it was early '98.

11 MS. RHODES: All right. So if there were testimony
12 that people involved in this case were active in that area during
13 that period and that there was marijuana involved as well as
14 other drugs, do you think that that would raise concerns for you
15 that there could be some connection?

16 A JUROR: Again, I am not on any kind of campaign to
17 find out what happened to my brother. I've let that go.

18 And so unless, unless his name somehow comes up, I
19 don't see how I would jump to leap to make any comparison. Okay?
20 That would not be my goal.

21 MS. RHODES: Well, I'm asking more, not so much that
22 that would be --

23 A JUROR: But the elements surrounding it being similar
24 or being like in the situation? No.

25 THE COURT: Sir, thank you very much. You may be

1 seated.

2 A JUROR: Good morning, Your Honor.

3 THE COURT: Good morning.

4 A JUROR: Juror 380.

5 THE COURT: 380. What questions bring you to us?

6 A JUROR: Just two of them. One, have you ever been
7 charged with a criminal act?

8 THE COURT: Yes.

9 A JUROR: And yes, I have. Assault and battery. I was
10 found not guilty.

11 THE COURT: When was this?

12 A JUROR: About eight years ago. I was going through a
13 custody battle with my wife and she alleged that I assaulted my
14 oldest daughter. The case went to trial. Judge Eschenburg in
15 Worcester County. My daughter got up on the stand, admitted that
16 it was all fabricated. So basically the judge found me not
17 guilty. And he also read my wife the Riot Act because of wasting
18 the Court's time. He actually took her back into the chambers.
19 I don't know what was said.

20 THE COURT: You didn't get arrested? You got a
21 summons?

22 A JUROR: No. I was taken in. I was booked.

23 THE COURT: You did get arrested.

24 A JUROR: I was booked. But the county commissioner
25 released me on my personal recognizance.

1 THE COURT: Do you feel you were treated fairly --
2 apart from your wife, do you believe --

3 A JUROR: Oh, yes.

4 THE COURT: -- the system, the judge and the officers,
5 the commissioners?

6 A JUROR: Yeah. That's where things lie. You know, I
7 didn't want to get, I was thinking about. You got to keep a
8 level head, you know. That's one of the things. You know,
9 you're innocent until proven guilty. That's one of the basic
10 things.

11 THE COURT: So it might affect you but it would affect
12 you positively because the system worked.

13 A JUROR: Oh, it would affect me positively, yeah. The
14 system worked in a good way.

15 THE COURT: Okay. Anything else?

16 A JUROR: The other one was the Scared --

17 THE COURT: Stop Snitching video.

18 A JUROR: Stop Snitching video. I heard about it on
19 like Channel 11 news, but I haven't seen it. I just heard brief
20 reports about it.

21 THE COURT: All right. Would it affect your ability to
22 serve as a juror?

23 A JUROR: No, not at all.

24 THE COURT: And if there were a second Stop Snitching
25 video that the evidence suggested one of the defendants might

1 have been involved in, would that impair your ability to judge
2 the evidence?

3 A JUROR: No. And that's one of the things, I would
4 just keep an open mind and listen to everything and make a
5 decision.

6 THE COURT: Okay. Thank you very much. Yes, sir.
7 Good morning. Your number?

8 A JUROR: 213.

9 THE COURT: Yes, sir. What questions bring you to us?

10 A JUROR: All the ones that you mentioned before. I'll
11 start off with crimes against friends. The one that I remember
12 the most is a daughter of a friend of mine was murdered before
13 she was supposed to testify in a trial. Do you want me to give
14 you any names or conditions?

15 THE COURT: Where was this?

16 A JUROR: Howard County.

17 THE COURT: How long ago?

18 A JUROR: I would say something like ten years ago.

19 THE COURT: A good friend? Very good friend?

20 A JUROR: Well, we were childhood friends, well, not
21 childhood, but late teens, twenties, friends. And then we sort
22 of grew apart. But we saw him on holidays and things of that
23 nature. We haven't seen him much since his daughter passed away.

24 THE COURT: All right. Under the circumstances, I
25 think we should excuse you from service as a juror in this case.

1 Thank you. Juror number 213 is excused.

2 Good morning. Move a little closer, please.

3 A JUROR: 407.

4 THE COURT: Juror Number 407. What questions bring you
5 to us?

6 A JUROR: It's the video. I'm a little bit of a sports
7 fan. And if I remember a few years ago, on one of the sports
8 talk shows I saw, there was a clip or something or other about
9 NBA stars has an affiliation with Baltimore.

10 THE COURT: Do you remember who that was?

11 A JUROR: I can't remember exactly. I want to say
12 Carmelo Anthony but I'm not positive.

13 THE COURT: You're right.

14 A JUROR: Okay. And the reason I think I remember that
15 is because he was just on the Olympic team.

16 THE COURT: Right. Other than that, seeing him on the
17 Olympic team, has there been any recent --

18 A JUROR: No.

19 THE COURT: -- reminder to you of the Stop Snitching
20 video?

21 A JUROR: No.

22 THE COURT: You never saw it yourself?

23 A JUROR: Never saw the thing. Just, I remember them
24 showing a clip at one time. Just that part of, in it. But I
25 don't even remember really what it was. It's been a few years

1 ago, I think.

2 THE COURT: All right. Would this affect your ability
3 to serve?

4 A JUROR: No, it would not.

5 THE COURT: And what if there were a second Stop
6 Snitching video that perhaps one or more defendants in this case
7 had been involved in? Would that affect your ability to serve?

8 A JUROR: No. No.

9 THE COURT: If there was such evidence, would you treat
10 it anything than just evidence?

11 A JUROR: Just evidence, yes.

12 THE COURT: Okay. Thank you very much.

13 Good morning. Your number?

14 A JUROR: 299.

15 THE COURT: 299. What questions bring you to us?

16 A JUROR: There was a question about if someone in my
17 family been, had a criminal act --

18 THE COURT: Yes.

19 A JUROR: -- against them. I think spent time in jail
20 or something like that. My wife had been mugged in a parking
21 garage about 21 years ago. No one was ever caught for it.

22 THE COURT: Where did this occur?

23 A JUROR: In Frederick, Maryland.

24 THE COURT: Did the police investigate as well as they
25 could?

1 A JUROR: Yes.

2 THE COURT: Was she injured seriously?

3 A JUROR: Not hospitalized, no.

4 THE COURT: I see. Has she gotten over the incident?

5 A JUROR: I think so. It never comes up.

6 THE COURT: Would this affect your ability to serve as
7 a juror?

8 A JUROR: No.

9 THE COURT: Any other incidents you need to report?

10 A JUROR: I spent a night in jail.

11 THE COURT: And what was that about?

12 A JUROR: The charge was indecent exposure. 28 years
13 ago when I was in college.

14 THE COURT: Where was this?

15 A JUROR: In Frostburg, Maryland.

16 THE COURT: Did you get it expunged?

17 A JUROR: Yeah. It was probation before judgment.

18 THE COURT: Were you urinating outside?

19 A JUROR: In a yard.

20 THE COURT: And you got arrested?

21 A JUROR: Yes.

22 THE COURT: Do you believe you were treated fairly?

23 A JUROR: Well, it was a humiliating experience, that
24 was good for my character, yes.

25 THE COURT: Would this affect your ability to serve?

1 A JUROR: No.

2 THE COURT: Thank you very much.

3 Good morning.

4 A JUROR: Good morning.

5 THE COURT: Your number?

6 A JUROR: 444.

7 THE COURT: Yes, sir. What questions bring you to us?

8 A JUROR: Three things, sir. First, while I was in the
9 Navy, the ship I was on was involved in a race riot. And the use
10 of violence and intimidation has really kind of warped my mind.
11 I have severe doubt that I could be particularly fair in that
12 case.

13 THE COURT: Okay. We're going to excuse you, sir.

14 What ship was it?

15 A JUROR: It was the USS New. DD 818.

16 THE COURT: Spell it.

17 A JUROR: New, N-E-W. And we were in the Arabian Gulf
18 on an independent patrol.

19 THE COURT: When was it?

20 A JUROR: 1976.

21 THE COURT: Did it ever make news?

22 A JUROR: I don't think it ever did because, as I say,
23 we were independent and we ended up getting a newspaper because
24 of it.

25 THE COURT: Was it a destroyer?

1 A JUROR: Yes. She was older than I was and I was a
2 chief engineer. Keeping her going was a problem.

3 THE COURT: Okay. We're going to excuse you. Thank
4 you very much.

5 A JUROR: Thank you, Your Honor.

6 THE COURT: Race riot on a ship.

7 MR. COBURN: That was the '70s.

8 THE COURT: Good morning.

9 A JUROR: Hi. Juror 39.

10 THE COURT: Yes, ma'am. What questions bring you to
11 us?

12 A JUROR: I've just had my car vandalized, beyond the
13 normal things that happen. I did file a report. Tire was stolen
14 in the Metro Parking Lot.

15 THE COURT: Anybody ever arrested?

16 A JUROR: No.

17 THE COURT: Of course not.

18 A JUROR: Never went further.

19 THE COURT: Would this affect your ability to serve?

20 A JUROR: No, sir.

21 THE COURT: Thank you very much.

22 Good morning.

23 A JUROR: Good morning. Juror 439.

24 THE COURT: 439? Try to keep your voice up, please.

25 Thank you. What questions bring you to us?

1 A JUROR: There were two, actually. The first one, was
2 I the victim of any crime? I did have an ex boyfriend back in
3 '97, '96, somewhere in that vicinity, that hit me and sent me to
4 the hospital. But it was a very minor misdemeanor.

5 THE COURT: Did you go to court and testify? Was he
6 convicted?

7 A JUROR: He was convicted. I did not need to testify.

8 THE COURT: I see. Was that because he pled guilty?

9 A JUROR: Yes.

10 THE COURT: I see. And were you satisfied with the way
11 it was handled?

12 A JUROR: Um-humm. Yeah.

13 THE COURT: I'm sorry. You have to say yes or no.

14 A JUROR: Yes.

15 THE COURT: Would this affect your ability to serve?

16 A JUROR: Not at all.

17 THE COURT: All right. The other matter?

18 A JUROR: The other matter is the same person also shot
19 himself when we would not get back together, and I was the one
20 that was there. So that I was the one that saved him. But that
21 would also not impact my ability to be impartial because he did
22 it to himself.

23 THE COURT: Did you have any warning that this was
24 likely to happen?

25 A JUROR: He was bipolar.

1 THE COURT: I'm sorry?

2 A JUROR: Bipolar.

3 THE COURT: Were you in his apartment?

4 A JUROR: Yes. And he yo-yo'd on his medicine quite a
5 bit. And he actually admitted later that he went off of his
6 medication during such and such time.

7 THE COURT: And you say you saved his life?

8 A JUROR: Yes.

9 THE COURT: By calling for help?

10 A JUROR: 911, yes.

11 THE COURT: Where was this?

12 A JUROR: Front Royal, Virginia.

13 THE COURT: How's he doing today?

14 A JUROR: He's alive. He's good.

15 THE COURT: You see him?

16 A JUROR: I used to talk to him every once in a while
17 but over the years we kind of lost touch.

18 THE COURT: Would this affect your ability to serve as
19 a juror?

20 A JUROR: Not at all.

21 THE COURT: Did you know he had a gun?

22 A JUROR: Actually, it wasn't his. He was living with
23 his parents at the time. Actually, his mother and his mother's
24 boyfriend. His mother's boyfriend kept something in the night
25 stand as far as protection for the family. And that's what he

1 got. And I was not aware that it was there.

2 THE COURT: Okay. But you say this wouldn't affect
3 your ability to serve?

4 A JUROR: No.

5 THE COURT: Okay. Thank you.

6 Good morning.

7 A JUROR: 281.

8 THE COURT: 281?

9 A JUROR: 281.

10 THE COURT: What questions bring you to us?

11 A JUROR: Well, the question which I didn't stand for
12 yesterday but I thought about, about the victim, family member.
13 And so a few years back my mom was a victim of someone breaking
14 in, tried to sexually assault her.

15 THE COURT: All right.

16 A JUROR: In her house.

17 THE COURT: Where was this?

18 A JUROR: This was in Florida.

19 THE COURT: And was the person apprehended ever?

20 A JUROR: No.

21 THE COURT: Was she seriously injured?

22 A JUROR: No. Luckily, he hadn't counted on a fiesty
23 Irish woman. So he kind of lost control of the situation and
24 fled immediately.

25 THE COURT: Did she suffer any permanent

1 psychological --

2 A JUROR: No, she didn't.

3 THE COURT: Do you believe the police investigated as
4 best they could?

5 A JUROR: Yeah.

6 THE COURT: Did they dust for fingerprints and that
7 kind of thing?

8 A JUROR: I believe so.

9 THE COURT: Would this affect your ability to serve as
10 a juror?

11 A JUROR: No, I don't think so.

12 THE COURT: All right. Thank you very much.

13 Good morning. Your number?

14 A JUROR: Number is 427.

15 THE COURT: Yes, sir. What questions bring you to us?

16 A JUROR: There was a question yesterday, I believe,
17 you asked about had you served on a jury before.

18 THE COURT: Yes.

19 A JUROR: And I had.

20 THE COURT: Okay. But did anything occur that would
21 affect your ability to serve as a juror in this case?

22 A JUROR: No.

23 THE COURT: Was it a criminal case?

24 A JUROR: Yes.

25 THE COURT: And what jurisdiction?

1 A JUROR: Howard County.

2 THE COURT: And what was the charge?

3 A JUROR: The charge was rape.

4 THE COURT: And did you convict or acquit?

5 A JUROR: It was an acquittal.

6 THE COURT: And was the deliberations fair, as far as
7 you're concerned?

8 A JUROR: I thought they were fair.

9 THE COURT: Okay. And did you think that the defense
10 lawyers did a decent job? A fair job?

11 A JUROR: I don't remember. I remember it was an
12 acquittal.

13 THE COURT: Do you think that the prosecutor did a fair
14 job?

15 A JUROR: I guess everybody did their job. It's just
16 the way the evidence was presented.

17 THE COURT: I understand. So do you think the system
18 works?

19 A JUROR: I think the system does work.

20 THE COURT: Okay. Would this affect your ability to
21 serve as a juror?

22 A JUROR: No, it would not.

23 THE COURT: Thank you very much. Was there something
24 else?

25 A JUROR: There was something else. My father was held

1 up in an armed robbery at a retail place where he worked.

2 THE COURT: Was he the owner or --

3 A JUROR: He just worked there. My grandfather owned
4 it.

5 THE COURT: Where was this?

6 A JUROR: It was a liquor store in College Park.

7 THE COURT: Was anyone injured?

8 A JUROR: No. They just put him in a lock-up freezer,
9 the walk-in freezer.

10 THE COURT: Were they able to get themselves out?

11 A JUROR: No, somebody had to get them out.

12 THE COURT: I see. Was anyone ever arrested?

13 A JUROR: Yes.

14 THE COURT: And was anyone convicted?

15 A JUROR: Yes.

16 THE COURT: And did you participate in the trial?

17 A JUROR: No.

18 THE COURT: Did you attend the trial?

19 A JUROR: I did not.

20 THE COURT: How long ago was this?

21 A JUROR: I don't know. It was before, before 1980
22 because that's when I worked there as well. So it was before
23 that.

24 THE COURT: Do you have any reason to think that it was
25 drug-related in any way?

1 A JUROR: I don't have, know that for a fact, no.

2 THE COURT: Okay. Would this affect your ability to
3 serve as a juror?

4 A JUROR: No, sir.

5 THE COURT: Thank you very much.

6 Good morning.

7 A JUROR: Good morning.

8 THE COURT: Your number?

9 A JUROR: 249.

10 THE COURT: Yes, sir. What questions bring you to us?

11 A JUROR: I just got validation during the lunch recess
12 yesterday of corporate policy concerning jury duty. And even
13 though I was told they would cover several weeks, come to find
14 out --

15 THE COURT: He's not going to be paid.

16 A JUROR: Yeah. They will only cover 80 hours.

17 THE COURT: Eighty hours. Basically give you two
18 weeks.

19 A JUROR: Yes.

20 THE COURT: Okay. We're going to excuse you, sir.
21 Thank you. Sorry we can't have you. That was Juror 249. He's
22 excused.

23 Good morning.

24 A JUROR: Number 14.

25 THE COURT: Juror Number 14. What questions bring you

1 to us?

2 A JUROR: First thing was contact with lawyers. I
3 neglected, because I hadn't heard from them until yesterday I got
4 home. I'm in the middle of a malpractice.

5 THE COURT: I'm sorry. Could you keep your voice up,
6 please?

7 A JUROR: I'm in the middle of a malpractice case with
8 attorney Barry Brown here in the city and Gil Cochran Associates
9 in Annapolis. And I have on September 29th, I'm ordered to do a
10 deposition. On the 29th of September.

11 THE COURT: Who represented you in the prior matter?

12 A JUROR: It's ongoing.

13 THE COURT: Okay. I'm sorry. But you said it's a
14 legal malpractice case.

15 A JUROR: Yes. A medical malpractice.

16 THE COURT: Oh, medical malpractice. You're the
17 plaintiff?

18 A JUROR: I am.

19 THE COURT: You're suing a doctor?

20 A JUROR: Correct.

21 THE COURT: And you're represented by?

22 A JUROR: Barry Brown and Associates.

23 THE COURT: I see. And Gil Cochran?

24 A JUROR: Yes. Started out as a motorcycle accident
25 and they handled the initial phase of that. And then introduced

1 me to Barry Brown. He's doing the malpractice side.

2 THE COURT: I see. Okay. And your deposition has been
3 noted for September 29th.

4 A JUROR: September 29th.

5 MR. COBURN: I think that will be a Friday.

6 THE COURT: Yeah. That is actually Monday.

7 A JUROR: I think it's a Monday.

8 THE COURT: We can certainly get that postponed to a
9 day when you wouldn't be on jury service. Would that be
10 acceptable to you or -- you don't want to see the postponement?

11 A JUROR: Well, it had to be accomplished 30 days from
12 September 10th and the date they came up with was the 29th. So I
13 don't know. I have no problem with that.

14 THE COURT: Okay. It won't be a problem, if you're
15 selected as a member of the jury, for me to speak to whatever
16 judge I need to speak to. Where did you file the case? Here in
17 the city? Do you recall?

18 A JUROR: I guess it's Annapolis.

19 THE COURT: Annapolis? That would not be a problem for
20 me. If there's some deadline and they're telling you that it has
21 to be done before the end of September, I'm sure it won't be a
22 problem getting it extended either until later in September or
23 early October.

24 A JUROR: Okay. I think some of the other questions
25 had to do with drug use or --

1 THE COURT: Yes.

2 A JUROR: I grew up in that era so I did it. I admit
3 it.

4 THE COURT: Did you ever get involved in the criminal
5 justice system?

6 A JUROR: Because of drugs? No.

7 THE COURT: Because of drugs. But you were a user?

8 A JUROR: Yes.

9 THE COURT: You've ceased your use?

10 A JUROR: Yes.

11 THE COURT: And how long ago did you use cease your
12 use?

13 A JUROR: 26 years ago.

14 THE COURT: Do you have any opinions about people who
15 still use drugs that would affect your ability to serve as a
16 juror?

17 A JUROR: No.

18 THE COURT: What about people who sell drugs?

19 A JUROR: Well, that's against the law. It is what it
20 is. I mean, I don't like to drive 55, but sometimes, but that's
21 the law.

22 THE COURT: Could you be fair and impartial in this
23 case?

24 A JUROR: Yes.

25 THE COURT: All right. Was there anything else?

1 A JUROR: Yes. I was a defendant in a criminal case in
2 '91.

3 THE COURT: And what was the charge?

4 A JUROR: Criminal child abuse.

5 THE COURT: Criminal child abuse.

6 A JUROR: I was falsely accused by five students of
7 inappropriate contact. I was acquitted in court. It was pretty
8 much laughed out of court.

9 THE COURT: Were you a teacher?

10 A JUROR: I was.

11 THE COURT: Where?

12 A JUROR: I was currently at Largo High.

13 THE COURT: You were at Largo when you were charged.

14 A JUROR: Currently at Annapolis High now.

15 THE COURT: High school students accused you?

16 A JUROR: Correct. Yes.

17 THE COURT: And what was the nature of the accusation?

18 A JUROR: That I inappropriately touched them.

19 THE COURT: I see. Were they all girls or all boys?

20 A JUROR: All girls.

21 THE COURT: And the case went to a jury trial?

22 A JUROR: It did.

23 THE COURT: In Prince Georges County?

24 A JUROR: Correct.

25 THE COURT: And when was this, approximately?

1 A JUROR: '91.

2 THE COURT: Now, when you say it was laughed out of
3 court --

4 A JUROR: Because, basically, the jury came back in
5 about 15 minutes and said that they don't know why we were there.

6 THE COURT: What do you suppose would have motivated,
7 assuming they were telling falsehoods against you, what would
8 have motivated them to do that?

9 A JUROR: The best I ever concluded was that, I don't
10 know if you're aware of the demographic of Largo High School. At
11 that time it was about 95% African-American, about 5% white.

12 THE COURT: I see.

13 A JUROR: And the five girls that accused me were all
14 white.

15 THE COURT: I see. I see.

16 A JUROR: One of them I had befriended. They were
17 given a project to select a student that seemed on the fringe and
18 try to use them as a class aid. She was one of the students that
19 I chose. The other four girls were not even students of mine.

20 THE COURT: They were not students.

21 A JUROR: They were not students of mine. They used to
22 voluntarily come to my classroom when we a lunch time/study hall
23 period. We had a four block period. Three blocks for lunch --
24 no. Two blocks for class, one block for lunch and one block for
25 study hall.

1 THE COURT: I see.

2 A JUROR: And she was in that third period class. And
3 here friends would sometimes come because they were allowed to go
4 wherever they wanted to for study hall.

5 THE COURT: Were you a new teacher at the time?

6 A JUROR: I was. It was my first year.

7 THE COURT: And were there parents behind it in any way
8 so far as you could tell?

9 A JUROR: The only comment I ever heard from any
10 parents were, if he gets off with this, we're going to get him.
11 Which we reported to the police.

12 THE COURT: Were you ever assaulted or confronted?

13 A JUROR: No.

14 THE COURT: Did you need protection at any time?

15 A JUROR: They offered it but we thought that it was
16 just parents blowing smoke. And nothing ever happened.

17 THE COURT: All right. Did they ever bring a civil
18 lawsuit against you or against the school?

19 A JUROR: No. I had contemplated bringing a civil law
20 suit again them. And the law firm that was representing me then
21 was William Murphy and Associates and Christina Gutierrez, who is
22 now deceased, was my attorney.

23 THE COURT: Was your attorney. And so it was a full
24 jury trial where all five girls testified?

25 A JUROR: Correct.

1 THE COURT: Okay. So would this affect your ability to
2 serve as a juror in this case?

3 A JUROR: No.

4 THE COURT: Okay.

5 A JUROR: I don't think so.

6 THE COURT: And you still have your certification?

7 A JUROR: I do. I'm currently teaching at Annapolis
8 High School in Anne Arundel County, have been for the last four
9 years.

10 THE COURT: Was there any other information you wanted
11 to bring up?

12 A JUROR: It seems there was something else I stood up
13 for but I can't remember. Those were the two things that were
14 most critical that I thought I should share.

15 THE COURT: The Stop Snitching?

16 A JUROR: No, I had no idea what that was. Still
17 don't.

18 THE COURT: Okay. Thank you very much.

19 A JUROR: You're welcome.

20 THE COURT: Yes, ma'am. Your number?

21 A JUROR: 410.

22 THE COURT: Yes, ma'am. What questions bring you to
23 us?

24 A JUROR: Just the one about the, the Stop Snitching.

25 THE COURT: Stop Snitching?

1 A JUROR: I've just seen bits and pieces of that.

2 THE COURT: You've seen bits and pieces of the Stop
3 Snitching on the news?

4 A JUROR: Yes.

5 THE COURT: And do you recall anything of what you've
6 seen or heard?

7 A JUROR: Very little. I mean, the only thing that
8 sticks out in my mind was something about Carmelo Anthony.
9 That's dealing with the kind --

10 THE COURT: Would this --

11 A JUROR: I chewed up a minute before I -- I guess it
12 went down the wrong pipe.

13 THE COURT: Would your limited recollection of that
14 report affect your ability to serve as a juror?

15 A JUROR: No.

16 THE COURT: You could be fair to the defense and to the
17 government?

18 A JUROR: Yes.

19 THE COURT: And what if there were a second Stop
20 Snitching video that one or more of the defendants were said to
21 be involved in? Would that affect your ability to serve?

22 A JUROR: No.

23 THE COURT: Okay. Thank you.

24 A JUROR: I did want to mention one other thing, too.

25 THE COURT: Yes, ma'am.

1 A JUROR: I thought yesterday in your instructions that
2 you instructed us, when we went to our lunch recess, not to talk
3 about the case or anything, not even to speak about whether it
4 was criminal or civil.

5 THE COURT: That's right.

6 A JUROR: When I came back into the jurors room after
7 we had lunch, you told us to report back at 2:15, there was a man
8 talking on his cell phone, telling somebody that he was here on a
9 criminal thing. So I just thought I would disclose that.

10 THE COURT: Do you know if that gentleman is still
11 here?

12 A JUROR: I don't know because I didn't, I heard his
13 voice. I didn't -- he was in the back of me.

14 THE COURT: I see. Did you hear anything other than,
15 I'm here at Federal Court and it's a criminal case?

16 A JUROR: No. That just sticks in my mind. But I was
17 thinking I got to talk to you because you specifically said not
18 to.

19 THE COURT: I did indeed. Thank you very much.

20 A JUROR: Thank you.

21 THE COURT: What do you say, counsel? Should we try
22 to -- I think this is the last. Can we do it? About ten more
23 people. These were in the first row. So we've gotten to the
24 bottom.

25 A JUROR: Good morning.

1 THE COURT: Good morning. Your number?

2 A JUROR: 313.

3 THE COURT: Yes, ma'am. What questions bring you to
4 us?

5 A JUROR: I think the question you asked was, was
6 whether anyone had been in rehab or anything such as that.

7 THE COURT: Involving substance abuse.

8 A JUROR: Right. My sorority system, but it was
9 alcoholism as opposed to drugs.

10 THE COURT: How is she doing now?

11 A JUROR: Twelve years clean.

12 THE COURT: Okay.

13 A JUROR: Yeah.

14 THE COURT: Would this affect your ability to serve as
15 a juror?

16 A JUROR: No.

17 THE COURT: Is there anything else?

18 A JUROR: And there was the question pertaining to
19 that, that video.

20 THE COURT: Stop Snitching?

21 A JUROR: Yes.

22 THE COURT: What do you know about the Stop Snitching?

23 A JUROR: I don't know anything about it other than one
24 of the little boys in church, Carmelo Anthony was his, he's a
25 fan. He's a fan. And he was just telling us about the community

1 work and they got to see him.

2 THE COURT: I see.

3 A JUROR: But that was all.

4 THE COURT: After, after Carmelo Anthony got criticized
5 for being involved in it, he did some community service.

6 A JUROR: Right.

7 THE COURT: That kind of thing.

8 A JUROR: And the little boy was one of the guys that
9 was, you know, got to see him.

10 THE COURT: Got to meet him?

11 A JUROR: Right.

12 THE COURT: I see. Would this affect your ability to
13 serve?

14 A JUROR: No, not at all.

15 THE COURT: Thank you very much.

16 A JUROR: Thank you. I can go back up?

17 THE COURT: Yes.

18 A JUROR: All right.

19 THE COURT: Good morning. Your juror number?

20 A JUROR: 195.

21 THE COURT: Can you keep your voice up just a little
22 bit?

23 A JUROR: 195.

24 THE COURT: Yes, ma'am. What questions bring you to
25 us?

1 A JUROR: Well, one was what you mentioned earlier. I
2 have a child who served time in jail.

3 THE COURT: What was the charge?

4 A JUROR: I'm not even sure. I know he was selling
5 drugs.

6 THE COURT: I see. And where was this?

7 A JUROR: That was in Virginia.

8 THE COURT: And how's he doing now?

9 A JUROR: That was over 20 years ago and he hasn't had
10 anything since.

11 THE COURT: I see. Do you believe he was treated
12 fairly when he was arrested and charged?

13 A JUROR: I do.

14 THE COURT: Would this affect your ability to serve as
15 a juror?

16 A JUROR: I don't think so.

17 THE COURT: Okay. Was there some other matter that you
18 wanted to bring to our attention?

19 A JUROR: The No Snitching video.

20 THE COURT: Can you get closer to the mike?

21 A JUROR: The No Snitching video. Yes. I think I
22 heard something about it on television several years ago. Other
23 than that, I don't know anything about it.

24 THE COURT: All right. Would it affect your ability to
25 serve --

1 A JUROR: No.

2 THE COURT: -- if there was evidence here about the
3 defendant's involvement in this Stop Snitching video?

4 A JUROR: No.

5 THE COURT: Thank you very much. Good morning. Can
6 you move down, please? Your number?

7 A JUROR: 176.

8 THE COURT: Yes, ma'am. What brings you to us? Which
9 question?

10 A JUROR: The question about an immediate family member
11 being a victim of a violent crime.

12 THE COURT: Yes.

13 A JUROR: My mother was robbed in her house where I
14 grew up and where she still lives, at gunpoint.

15 THE COURT: And when was this?

16 A JUROR: Probably eight years ago.

17 THE COURT: And where is this?

18 A JUROR: In Buffalo.

19 THE COURT: And was anyone ever apprehended?

20 A JUROR: Yes.

21 THE COURT: Was she injured?

22 A JUROR: Physically? No.

23 THE COURT: Is she still suffering from the
24 psychological effects?

25 A JUROR: She says no. But she's got an alarm system.

1 A dog. It's a rough neighborhood.

2 THE COURT: Did you attend the trial?

3 A JUROR: I did not. My mother did.

4 THE COURT: Was the defendant convicted?

5 A JUROR: He was.

6 THE COURT: And was it after a trial or did he plead
7 guilty?

8 A JUROR: I don't remember. He did serve seven years.

9 THE COURT: Seven years?

10 A JUROR: Yes. Because it was not his first offense.

11 THE COURT: Okay. Did your mom feel it was handled
12 appropriately?

13 A JUROR: She did. I think because my father was a
14 prison guard and he worked it out, sort of had some influence.

15 THE COURT: I see. Do you think, based on that
16 experience, that the criminal justice system works appropriately?

17 A JUROR: Yes.

18 THE COURT: You do. Would this affect your ability to
19 serve as a juror?

20 A JUROR: I think it may just to the armed robbery
21 aspect of the charges.

22 THE COURT: That would cause you some problems?

23 A JUROR: Yes.

24 THE COURT: Okay. Thank you very much. We're going to
25 excuse you.

1 A JUROR: Thank you.

2 THE COURT: Juror 176 is excused.

3 Good morning. Your number?

4 A JUROR: 21.

5 THE COURT: Yes, ma'am. What questions bring you to
6 us?

7 A JUROR: You said to come up if we thought we should
8 have answered something yesterday.

9 THE COURT: Yes.

10 A JUROR: I think I should have answered yesterday to
11 giving, I guess, more credence to a law officer or law
12 enforcement officer's testimony.

13 THE COURT: You thought about that overnight?

14 A JUROR: Yeah. And I thought I could try to get over
15 it and do what you tell me to, but it's sort of ingrained into my
16 system.

17 THE COURT: You told us you have cousins and uncles
18 and --

19 A JUROR: No. I only stood up for one question only.

20 THE COURT: So it's just your regard for law
21 enforcement officers?

22 A JUROR: Yes.

23 THE COURT: Okay. All right. We're going to excuse
24 you from service. Thank you very much.

25 A JUROR: Thank you.

1 THE COURT: You're free to leave. Good morning.

2 A JUROR: Good morning.

3 THE COURT: Your number?

4 A JUROR: 187.

5 THE COURT: Yes, sir. What questions bring you to us?

6 A JUROR: Actually, I just had a couple things I stood
7 up for yesterday.

8 THE COURT: Actually, I think you stood up for the last
9 question. Didn't you? Is there any reason at all? Why didn't
10 you start with that?

11 A JUROR: Actually, I thought about it last night.
12 It's not even worth it.

13 THE COURT: Why don't you tell us?

14 A JUROR: I'm just going to sound like I've never,
15 obviously, much like a lot of these people, I've never served
16 jury duty. So I didn't know, I know it's just listening to the
17 evidence. But I don't know like if I could judge somebody based
18 off the evidence, biased or non-biased based off just the
19 evidence.

20 THE COURT: What would be the source of the bias?

21 A JUROR: I guess just years of watching entertainment
22 and reading about trials. I think that's about where it comes
23 from.

24 THE COURT: So you think they must be guilty or they
25 must not be guilty?

1 A JUROR: Sometimes like if they're there, I would lean
2 more toward they could be guilty. But I know it's a matter of
3 just basing off the evidence, what the evidence is.

4 THE COURT: It sounds like you're struggling with the
5 concept of the presumption of innocence.

6 A JUROR: Yeah. I think that's what it is.

7 THE COURT: Sometimes people think just because they've
8 been charged, they must be guilty of something.

9 A JUROR: Right.

10 THE COURT: Is that what you're saying?

11 A JUROR: I think so, yeah.

12 THE COURT: Okay. Well, I appreciate your honesty and
13 I'm going to release you from service. I think you would be a
14 great juror in like a civil case, but probably not a criminal
15 case. But maybe if you think about it more you'll come really to
16 appreciate that just because a person is charged with a crime,
17 doesn't mean they're guilty of a crime.

18 A JUROR: Right. Well, just like I'd have to put
19 myself in their shoes, if that was me. I would want to make sure
20 I have a fair jury. And I wouldn't want somebody to think I'm
21 guilty when I'm not guilty. If I'm not guilty.

22 THE COURT: Exactly. We're going to excuse you.

23 A JUROR: Thank you very much.

24 THE COURT: Good luck.

25 A JUROR: 366.

1 THE COURT: Good morning. What questions bring you to
2 us? 366.

3 A JUROR: I just wanted to clarify a couple things I
4 didn't say yesterday. My mother's father was a city policeman,
5 though I've never talked to him.

6 THE COURT: Okay. Your grandfather was a city officer
7 here in Baltimore?

8 A JUROR: Yes.

9 THE COURT: Would that affect your ability to serve as
10 a juror?

11 A JUROR: No.

12 THE COURT: And then my parents divorced when I was 11.
13 And afterwards my mother went to alcoholic treatment. And then
14 my older sister did as well.

15 THE COURT: I see.

16 A JUROR: I heard of the snitch video but nothing more
17 than radio news and saying snitch video. And also rap, gangsta
18 rap. I've heard of it from radio news. Nothing more.

19 THE COURT: Would any of this affect your ability to
20 serve?

21 A JUROR: No, sir.

22 THE COURT: Now, what if there was a second Stop
23 Snitching video in which there was a suggestion that the
24 defendant here was involved? Would that affect your ability to
25 judge the evidence?

1 A JUROR: No.

2 THE COURT: All right. Thank you. Yes, ma'am?

3 A JUROR: Good morning.

4 THE COURT: Good morning. Can you get a little closer,
5 please? Your number?

6 A JUROR: 290.

7 THE COURT: What questions bring you to us?

8 A JUROR: It was about the narcotics.

9 THE COURT: Yes.

10 A JUROR: When I was about 20, I experimented. And
11 then after that, I figured it would kill me. And I ended up as a
12 nurse working in rehab in Union Memorial and Springfield. Then I
13 worked at Johns Hopkins. So I just kind of turned my life
14 around.

15 THE COURT: You never were arrested or charged
16 criminally for your use?

17 A JUROR: Oh, no.

18 THE COURT: Would this affect your ability to serve as
19 a juror?

20 A JUROR: No.

21 THE COURT: Thank you very much.

22 MR. COBURN: Could I mention a quick thing, Your Honor?
23 Juror Number One responded yes to that key question at the end,
24 also. I don't think he said anything about it when he was up
25 here. Juror Number One.

1 MR. MARTIN: Yeah. Number One hasn't been up here.

2 THE COURT: I don't think so, either.

3 Good morning. Your number?

4 A JUROR: 145.

5 THE COURT: Yes, ma'am. What questions bring you to
6 us? 145.

7 A JUROR: Yes. The only two that I can specifically
8 remember are the one about gangsta rap. And the only reason that
9 I know anything about it is because I have two teenaged children
10 and not that I've ever heard it or, but I've just heard them
11 reference it.

12 THE COURT: Would this affect your ability to serve as
13 a juror?

14 A JUROR: Absolutely not.

15 THE COURT: All right.

16 A JUROR: What was the other question? I just
17 remembered it back there.

18 THE COURT: Victim of a crime or drug use.

19 A JUROR: No.

20 THE COURT: Stop Snitching.

21 A JUROR: It was the Stop Snitching. And that was on
22 the radio just in a, like a brief newscast, because I very rarely
23 get to watch the news.

24 THE COURT: All right. Would that affect your ability
25 to serve?

1 A JUROR: No. I don't know enough about it to even,
2 even make an opinion.

3 THE COURT: Okay. Thank you very much.

4 A JUROR: Thank you.

5 THE COURT: Yes, sir. Good morning.

6 A JUROR: 386.

7 THE COURT: 386. Sir, what questions bring you to us?

8 A JUROR: The Stop Snitching video.

9 THE COURT: What do you know about that?

10 A JUROR: Not a lot. I did not see the video. I'm
11 generally aware of the issues.

12 THE COURT: I see. Would it affect your ability to
13 serve as a juror?

14 A JUROR: No, I don't believe so.

15 THE COURT: What if there were a second Stop Snitching
16 video in which it was alleged one or more of the defendants were
17 involved in?

18 A JUROR: Well, there's certainly, we all know there's
19 a segment of society that doesn't trust the criminal justice
20 system and certainly not all of them are criminals. So just
21 being involved in something like the video is not in itself a
22 reason to think someone is involved in crime.

23 THE COURT: Thank you very much. Yes, sir. Good
24 morning.

25 A JUROR: 108.

1 THE COURT: Yes, sir. What would you like to tell us?

2 A JUROR: Does an expunged record count?

3 THE COURT: Yes. Yes.

4 A JUROR: Okay.

5 THE COURT: So who was convicted and of what?

6 A JUROR: Me.

7 THE COURT: Of what?

8 A JUROR: Of battery.

9 THE COURT: Of battery. How long ago?

10 A JUROR: About 13 years ago.

11 THE COURT: So you were convicted. No, you weren't
12 convicted.

13 A JUROR: Yeah.

14 THE COURT: PBJ?

15 A JUROR: Yeah.

16 THE COURT: And was it like a domestic situation?

17 A JUROR: Yes.

18 THE COURT: Did you plead guilty or have a trial?

19 A JUROR: Plead guilty.

20 THE COURT: You pled guilty? And then you got it
21 expunged?

22 A JUROR: Yes.

23 THE COURT: And you feel you were treated fairly?

24 A JUROR: Yeah.

25 THE COURT: Were you arrested?

1 A JUROR: Just held.

2 THE COURT: I'm sorry?

3 A JUROR: Just held and released on my own.

4 THE COURT: Where did this occur?

5 A JUROR: In Glen Burnie.

6 THE COURT: In Glen Burnie? Was it a girlfriend or a
7 wife or --

8 A JUROR: My son.

9 THE COURT: Your son?

10 A JUROR: My stepson.

11 THE COURT: Your stepson. How old was he?

12 A JUROR: He was 16.

13 THE COURT: So you were trying to correct him?

14 A JUROR: Discipline him.

15 THE COURT: How are you two doing now?

16 A JUROR: We're doing great.

17 THE COURT: Would this affect your ability to serve as
18 a juror?

19 A JUROR: No, sir.

20 MR. MARTIN: Your Honor, I think you also stood up
21 yesterday in response to a family or friend member, drug
22 situation.

23 A JUROR: Yes. My brother went to rehab.

24 THE COURT: How long ago was that?

25 A JUROR: Back in the early '90s. '91, '92.

1 THE COURT: Do you know what substance he was abusing
2 at the time?

3 A JUROR: Crack.

4 THE COURT: Crack? How is he doing today?

5 A JUROR: He's doing great today.

6 THE COURT: Did he go as a result of being charged
7 criminally or did the family encourage him to go? How did he
8 happen to go to rehab?

9 A JUROR: My mother made him go.

10 THE COURT: This is your younger brother?

11 A JUROR: No, he's an older brother.

12 THE COURT: You see him now?

13 A JUROR: Yes, sir.

14 THE COURT: Is he doing well?

15 A JUROR: Yes, sir.

16 THE COURT: Would this affect your ability to serve as
17 a juror?

18 A JUROR: No, sir.

19 THE COURT: Okay. Thank you very much. Was there
20 anything else?

21 A JUROR: Oh, about the video.

22 THE COURT: Stop Snitching?

23 A JUROR: Yeah. I mean, I seen that in the last --

24 THE COURT: Did you see the video or did you see a news
25 report?

1 A JUROR: No, I just seen the news report about the guy
2 getting convicted.

3 THE COURT: I see. Would this affect your ability to
4 serve?

5 A JUROR: No.

6 THE COURT: All right. Thank you very much. Good
7 morning.

8 A JUROR: Good morning.

9 THE COURT: Your number?

10 A JUROR: 73.

11 THE COURT: Yes, ma'am.

12 A JUROR: I was the one that was out of line yesterday.

13 MR. COBURN: She was the one was out of line. Was the
14 mistake about her number.

15 A JUROR: I actually had to rush to the ladies room. I
16 take medication for anxiety and nervousness and it kind of
17 suddenly hit me right before.

18 THE COURT: Would that impede your ability to serve as
19 a juror?

20 A JUROR: To be honest with you, I don't know if I
21 could make a sound decision, sort of have a good judgment
22 sometimes.

23 THE COURT: Okay. Well, we wish you well. The
24 medication helps you?

25 A JUROR: Yes.

1 THE COURT: A lot? Good. Well, keep taking it.

2 Thanks for being with us. Juror 73 is excused.

3 MR. COBURN: Too bad. Looked like she had pretty sound
4 judgment to me.

5 THE COURT: Yeah. She sure did.

6 Good morning. Move over just a bit, please. Your
7 number?

8 A JUROR: 77.

9 THE COURT: Yes, ma'am. What questions bring you to
10 us?

11 A JUROR: It was the one where you asked if a friend
12 had been a victim of a violent crime, specifically shot. My next
13 door neighbor, about 25 years ago, I didn't even know her then,
14 but she, some guy grabbed her purse and she took off after him.
15 He turned around and shot her in the foot.

16 THE COURT: Where was this?

17 A JUROR: I don't know. I don't know anything else
18 other than that.

19 THE COURT: Okay. Did she have permanent scarring or
20 results from it?

21 A JUROR: Not that I can see. Not that I can see.

22 THE COURT: Does she mention it frequently?

23 A JUROR: No.

24 THE COURT: Would this affect your ability to serve as
25 a juror?

1 A JUROR: No.

2 THE COURT: Was anyone ever convicted in that case?

3 A JUROR: I don't know anything more other than the
4 details I just told you or fact, rather.

5 THE COURT: Thank you very much.

6 A JUROR: Go back to my seat?

7 THE COURT: Yes.

8 Good morning. Your number?

9 A JUROR: 374.

10 THE COURT: 374? What questions bring you to us?

11 A JUROR: There were a few that I stood up for
12 yesterday. I am a public school teacher so I have been trained
13 in awareness of the safety of the students. I'm a public school
14 teach so I have been trained in awareness, of the public
15 awareness for the safety of the students. And I've attended
16 community forums geared specifically for the school, in that same
17 topic.

18 I also stood up when you asked if I have been a victim
19 of a crime, which I have had my car stolen. My son has had
20 things stolen for him which we did go to trial for.

21 THE COURT: For which you did go to trial for?

22 A JUROR: Yes.

23 THE COURT: Was this a street robbery of your son?

24 A JUROR: It was personal property taken from his book
25 bag.

1 THE COURT: From his book bag while he was at school?

2 A JUROR: No. When he was off school grounds, in
3 another location.

4 THE COURT: I see. So you did go to court and someone
5 was charged with this?

6 A JUROR: It was a juvenile.

7 THE COURT: It was a juvenile. Was it sort of a friend
8 or quasi friend of his?

9 A JUROR: No. It actually was a person unknown to him
10 who took his graphing calculator from his bag.

11 THE COURT: Was the bag like left while he was waiting
12 for the bus or that kind of thing?

13 A JUROR: No. It was actually, when he was younger, at
14 a mall, he was at one of those birthday party things where they
15 go in and play laser tag. And one of the employees went into his
16 bag.

17 THE COURT: I see. So he wasn't accosted. But it was
18 a secretive entry into his bag. Okay.

19 A JUROR: The other thing -- there were a few other
20 things. First of all, I have sat as a juror on a trial before.
21 I did indicate when I stood up. It was in Baltimore County in
22 Towson so it may have been District Court. I don't understand
23 the levels.

24 THE COURT: It would have been Circuit Court.

25 A JUROR: So I was a juror on a trial before.

1 THE COURT: What was the charge?

2 A JUROR: Malpractice.

3 THE COURT: Oh, civil case.

4 A JUROR: My neighbor was robbed at gunpoint in her
5 home. I did not witness it. She did come to my home afterwards.

6 THE COURT: Immediately afterwards?

7 A JUROR: She did. She came to us. And she wasn't an
8 immediate neighbor. She was around the corner, when I lived here
9 Downtown. We did call the police and help her out.

10 THE COURT: And this was, what? An invasion? People
11 knocked at the door and broke in?

12 A JUROR: That is true.

13 THE COURT: And when was this?

14 A JUROR: Back in the late '70s, early '80s.

15 THE COURT: Was she injured?

16 A JUROR: Hand injury just from where they had pushed
17 the door open.

18 THE COURT: Was anyone ever arrested?

19 A JUROR: I don't know what the outcome was of the
20 case. I just helped her get the police and the medic. In that
21 same neighborhood there was an attempted breaking into my house.
22 There was during revitalization of some of the row homes down by
23 the Inner Harbor. So during the construction phase, things were
24 taken. We had an alarm system. There was an attempt and my car
25 was stolen from outside of that same property.

1 THE COURT: Okay.

2 A JUROR: Now, you asked about the Stop Snitch video.
3 Again, I am in the public school system so do I work in a high
4 school setting. So we have been -- I don't know the contents of
5 it. I have heard about it via media. The SRO police officers
6 assigned to the school have mentioned it. The students at the
7 school talk about it. But I'm unaware of the contents.

8 You asked about gangsta rap. Again, I'm at the high
9 school level so I kind of hear more than perhaps most. I've
10 never listened to it per se to myself. It's a personal choice.
11 You know, I have music in my home all the time. And I've raised
12 two sons of my own. They listen to their own music. So I don't
13 know if that would affect my selection in any way.

14 The one thing that I did want to put out there, just
15 because I think it's fair that you all know this, is that I am a
16 public school teacher, as I said before. And my territory does
17 include Owings Mills and Randallstown. While I did not know per
18 se many of the names on the list, the surnames are quite familiar
19 just in terms that, you know, the names, relatives, who knows.

20 So I wanted to make that known because if for some
21 reason someone came into the courtroom, they may recognize me, I
22 may not recognize them.

23 Roy Jones was a name that was listed. I didn't think
24 anything of it at the time. I did teach a student by the name of
25 Roy Jones, who was a white child who would have been in his

1 twenties at this point in time. So I don't know if there's any
2 connection there.

3 THE COURT: Okay. What do you do for the county
4 schools now?

5 A JUROR: I am a technology liaison. I work with
6 students and teachers in the computer field.

7 THE COURT: I see. And you've covered the northwest
8 section of the county?

9 A JUROR: I'm assigned to Newtown High School at the
10 moment. But my special education background, I've worked with
11 students in foster care. I serve as liaison where I represent
12 students as an advocate, go in and register them and kind of
13 follow up on them and make sure they don't fall through the
14 cracks.

15 THE COURT: Would any of this affect your ability to
16 serve as a juror?

17 A JUROR: Wouldn't affect my ability. The only problem
18 or the only sensitive area would be if for some reason someone
19 were to walk into the courtroom and recognized me because I have,
20 I guess, that I work with, I am sometimes sitting on many, many
21 conference meetings with social workers. Not necessarily parents
22 or guardians but many of the students that I work with, you know,
23 are members, are juveniles in court, placed in different homes.
24 I don't know if I would recognize them.

25 THE COURT: All right. I think probably, in an

1 abundance of caution, I think you would make a wonderful juror.
2 But there will be persons from Baltimore County coming in to
3 testify as witnesses. And indeed, I know of at least two young
4 people who may well have been in high school at Randallstown at a
5 time when you were working in that area. So rather than run the
6 risk that that would happen, I'm going to excuse you. Thank you
7 very much.

8 A JUROR: Thank you.

9 THE COURT: I was thinking of the young lady, Andrea
10 Smith.

11 MR. HARDING: Yes.

12 THE COURT: Wouldn't she be, well, she was 12 at the
13 time. So she's --

14 MR. HARDING: She would have been in high school just
15 in the last few years.

16 THE COURT: Yeah.

17 MR. COBURN: She still could have well had contact with
18 her.

19 THE COURT: Yeah. She could have had contact with her
20 in the last three or four years. And she would have gone to
21 Randallstown if she'd gone to her zone school. Of course, I
22 don't know if they still live there.

23 Good morning. Your number?

24 A JUROR: 19.

25 THE COURT: Yes, ma'am. What brings you to us?

1 A JUROR: I have, my oldest son was in drug rehab.

2 THE COURT: When was this?

3 A JUROR: About two years ago.

4 THE COURT: How's he doing now?

5 A JUROR: The last time I saw him, he was doing fine.

6 THE COURT: And when was that, approximately?

7 A JUROR: That's been about six months ago.

8 THE COURT: And is that here in Baltimore?

9 A JUROR: He lives here in Baltimore with his brother.

10 THE COURT: I see.

11 A JUROR: I live in the county.

12 THE COURT: What substance was he abusing, mainly?

13 A JUROR: Alcohol.

14 THE COURT: Alcohol?

15 A JUROR: Yes.

16 THE COURT: You're not aware of any illegal narcotics?

17 A JUROR: None that I know of.

18 THE COURT: Would this affect your ability to serve as
19 a juror, ma'am?

20 A JUROR: No, it would not.

21 THE COURT: Was there anything else you wished to bring
22 to our attention?

23 A JUROR: The other thing, the Stop --

24 THE COURT: Stop Snitching.

25 A JUROR: I don't know nothing about it. I heard it in

1 walking through the living room.

2 THE COURT: Okay.

3 A JUROR: But I never --

4 THE COURT: It was on the news?

5 A JUROR: Yes.

6 THE COURT: All right. Is there any discussion about
7 it in your home?

8 A JUROR: No, it's not.

9 THE COURT: Okay. Would this affect your ability to
10 serve?

11 A JUROR: No, it would not.

12 THE COURT: All right. Thank you very much.

13 A JUROR: Thank you.

14 A JUROR: Good morning, Your Honor.

15 THE COURT: Good morning. Your number?

16 A JUROR: 367.

17 THE COURT: Yes, sir. What questions bring you to us?

18 A JUROR: There were a couple. I have a brother-in-law
19 who has had drug abuse issues for a long time, up to and
20 including which brought him to spending time in jail, in prison.

21 Also, I was involved in a, I guess a home invasion
22 break-in involving a drug-related robbery.

23 So those are the items that I did respond to yesterday
24 for you. I just briefly wanted to mention, after I thought more
25 about it, the snitch video, unfortunately, I read about it, I

1 think, through the sports page, through, I think, Carmelo Anthony
2 may have been involved in that. Not through the news media other
3 than, unfortunately, I stumbled across it on the sports page.

4 THE COURT: Would any of this affect your ability to
5 serve as a juror?

6 A JUROR: No, sir.

7 THE COURT: Now, your brother-in-law was both using
8 drugs and selling drugs?

9 A JUROR: More use than sell.

10 THE COURT: And what was the home invasion?

11 A JUROR: Before my wife and I got married, we had a
12 roommate. And apparently, unbeknownst to us, he had a substance
13 abuse issue. And obviously, he staged a break-in to the house,
14 stole my wife's purse and credit cards.

15 THE COURT: Oh, I see. This was separate from your
16 brother-in-law.

17 A JUROR: Yes.

18 THE COURT: But you say none of this would affect your
19 ability?

20 A JUROR: No, sir.

21 THE COURT: Okay. Thank you very much.

22 A JUROR: Okay. Thank you.

23 THE COURT: Good morning.

24 A JUROR: 264.

25 THE COURT: Yes, ma'am. What questions bring you to

1 us?

2 A JUROR: My son was convicted of underage drinking and
3 drinking while intoxicated. And as a result, he had to complete
4 a drug and alcohol treatment program.

5 THE COURT: How long ago was that?

6 A JUROR: That was almost four years ago.

7 THE COURT: And how's he doing now?

8 A JUROR: He's doing pretty good.

9 THE COURT: Do you believe he was treated fairly?

10 A JUROR: Yes.

11 THE COURT: Did you help him hire a lawyer and so
12 forth?

13 A JUROR: Sure.

14 THE COURT: And did you attend court with him?

15 A JUROR: Sure.

16 THE COURT: But you believe he was treated fairly?

17 A JUROR: Yes, I do.

18 THE COURT: You're pleased with the outcome?

19 A JUROR: Yes, I am.

20 THE COURT: Would this affect your ability to serve as
21 a juror?

22 A JUROR: No. Not at all. Thank you.

23 THE COURT: Thank you very much.

24 MR. MARTIN: Didn't she answer someone was shot?

25 Knowing someone who was shot?

1 THE COURT: Good morning.

2 A JUROR: 387.

3 THE COURT: 387. What questions bring you to us?

4 A JUROR: I answered yes to the victim of a crime
5 question.

6 THE COURT: Yes.

7 A JUROR: I had a kayak stolen four months ago.

8 THE COURT: A car accident?

9 A JUROR: A kayak stolen off my car.

10 THE COURT: Oh, oh, oh. It was parked on the street?

11 A JUROR: Yes.

12 THE COURT: Anybody ever arrested?

13 A JUROR: Yes. It was retrieved and arrested. He got
14 probation before judgment.

15 THE COURT: Did you see him do it?

16 A JUROR: No.

17 THE COURT: How did they catch him?

18 A JUROR: I found the kayak on Craigslist and contacted
19 the police.

20 THE COURT: Is that right?

21 A JUROR: Not the smartest criminal.

22 THE COURT: How much do they sell for? Not on
23 Craigslist? But I mean, if you went and bought a new kayak?

24 A JUROR: I paid like 650 for mine. But you can spend
25 2000.

1 THE COURT: Where was this?

2 A JUROR: Towson.

3 THE COURT: Towson? So you went on Craigslist? Where
4 were you looking for the kayak?

5 A JUROR: Yes.

6 THE COURT: And --

7 A JUROR: I thought, the college area. And I thought a
8 college kid may have taken it or something like that.

9 THE COURT: And did the county police help you like
10 with the sting? How did you do it?

11 A JUROR: Yeah. They pretended to buy it from the
12 individual and he said it was on his property. And he actually
13 admitted to stealing it.

14 THE COURT: When they questioned him?

15 A JUROR: Yeah.

16 THE COURT: How old was the kid?

17 A JUROR: I think he was 24.

18 THE COURT: Did you attend the trial?

19 A JUROR: Yep.

20 THE COURT: Okay. Did he apologize?

21 A JUROR: Yeah, he apologized. Gave me restitution in
22 person. It was unfortunate but --

23 THE COURT: What was unfortunate?

24 A JUROR: It was kind of wasting my time. I wasn't
25 really angry.

1 THE COURT: Oh. Would this affect your ability to
2 sever as a juror?

3 A JUROR: No.

4 THE COURT: Okay. Thank you very much.

5 A JUROR: Thank you.

6 THE COURT: Good morning. Your number?

7 A JUROR: 123.

8 THE COURT: Yes, ma'am. What questions bring you to
9 us?

10 A JUROR: You asked about the video.

11 THE COURT: Yes. Stop Snitching.

12 A JUROR: Yes.

13 THE COURT: What do you know about it?

14 A JUROR: It was featured on the news.

15 THE COURT: Anything else?

16 A JUROR: That's about it. Just familiar with the
17 title.

18 THE COURT: Do you have an opinion about it?

19 A JUROR: Very effective marketing. The name says it
20 all.

21 THE COURT: Would this affect your ability to serve as
22 a juror?

23 A JUROR: No, sir.

24 THE COURT: If there were a second Stop Snitching video
25 that it was suggested the defendants were involved in, would that

1 affect your ability to serve as a juror?

2 A JUROR: No, sir.

3 THE COURT: Thank you very much.

4 Good morning.

5 A JUROR: 207.

6 THE COURT: 207. What questions bring you to us?

7 A JUROR: I had heard of the film.

8 THE COURT: The Stop Snitching?

9 A JUROR: Yes. But I don't know what the content was.

10 THE COURT: Would this affect your ability to serve as
11 a juror?

12 A JUROR: No.

13 THE COURT: All right. Thank you. Anything else?

14 A JUROR: I had a brother that was, 25 years ago, I'm
15 not sure what happened. I know it was drug-related. I was in
16 the Navy at the time. Nobody wants to talk about it.

17 THE COURT: I see.

18 A JUROR: I think he did 30 days in jail.

19 THE COURT: Do you know what the drug was?

20 A JUROR: I think it was cocaine.

21 THE COURT: Cocaine? Do you think it was possession or
22 was he selling it or you're just not sure?

23 A JUROR: Never --

24 THE COURT: How is he doing today?

25 A JUROR: He's fine.

1 THE COURT: To your knowledge, was he treated fairly?
2 Or unfairly?

3 A JUROR: I --

4 THE COURT: Just don't know?

5 A JUROR: No, nobody talks.

6 THE COURT: Would this affect your ability to serve as
7 a juror?

8 A JUROR: No.

9 THE COURT: Okay. Thank you very much. You may be
10 seated.

11 A JUROR: 400.

12 THE COURT: Good morning. What questions bring you to
13 us, sir?

14 A JUROR: The one about a relative being shot. My
15 brother got shot back --

16 MS. RHODES: What number?

17 THE COURT: 400.

18 A JUROR: He got shot, he was a cab driver. He got
19 shot in the leg.

20 THE COURT: He was a cab driver and he was robbed and
21 shot?

22 A JUROR: Right.

23 THE COURT: Was anyone ever apprehended?

24 A JUROR: I used to go out at night, too. Drive at
25 night, too. Because he had three cabs. And the one I alternated

1 with, he got sliced before he got robbed.

2 THE COURT: Again, another robbery?

3 A JUROR: Another robbery. They didn't catch either.

4 THE COURT: Would either of these incidents affect your
5 ability to serve as a juror?

6 A JUROR: No.

7 THE COURT: You could be fair to the defense?

8 A JUROR: True.

9 THE COURT: And to the government?

10 A JUROR: True.

11 THE COURT: Any doubt in your mind about that, sir?

12 A JUROR: No, not really.

13 THE COURT: All right. Thank you very much.

14 Good morning.

15 A JUROR: Number one.

16 THE COURT: Good morning, Number One.

17 A JUROR: First and last.

18 THE COURT: Yes, sir. What questions do you want to
19 tell us about?

20 A JUROR: I don't think I have any questions to tell
21 you about. I do have, I'm getting too analytical and I'm
22 watching too much Court TV. It seems to me that given what came
23 up yesterday, the indictment, the amount of time the
24 investigation has gone on, by the time the prosecution gets
25 finished putting on their testimony and witnesses, it's going to

1 take six weeks. And I, probably say, I'm going to be ignoring it
2 because I think the evidence is going to be so strong, I'm going
3 to say, What am I doing here?

4 THE COURT: Okay. We're going to excuse you, sir.

5 While I appreciate your candor, it's important, I appreciate
6 that, it really is a flawed inference. And I don't mean to be
7 critical. But --

8 A JUROR: I understand.

9 THE COURT: The length of an investigation, the age of
10 a case, how much resources the government puts into an
11 investigation, are never a substitute for real evidence that
12 proves beyond a reasonable doubt that somebody's guilty.

13 Now, I'm not criticizing you.

14 A JUROR: That's true. But given the size of the
15 indictment and given the government making their case, I suspect
16 that they think they're right. And I think they've done a lot of
17 work to get there.

18 THE COURT: But what I'm telling you, sir, is that
19 there have been 475 counts in an indictment and acquittals. The
20 presumption of inference really does mean something. And you
21 can't judge a case by how much money the government spends or how
22 long they take or how dedicated --

23 A JUROR: My point, I'm not judging it. I'm saying
24 that the, the information and the evidence that comes in, I
25 think, is going to be related to the amount of work that's been

1 done on it. And I think it's going to be overwhelming.

2 THE COURT: But you see, you're already making up your
3 mind about finding the evidence and you haven't heard any
4 evidence. You don't know what the evidence is.

5 A JUROR: But I'm speculating.

6 THE COURT: Exactly.

7 A JUROR: I'm saying if this happens and if the
8 evidence is as strong as I think it's going to be, I am going to
9 be a little bit upset. If it's not, then I'll take, and I'll
10 listen to all the evidence and then decide, it's not very good
11 evidence at all and I'm not upset.

12 THE COURT: Well, thank you very much. We appreciate
13 having you with us. You're excused.

14 MR. MARTIN: Your Honor, are we on record?

15 THE COURT: We are on the record.

16 MR. MARTIN: I just realized, I'm looking at Mr. [REDACTED]
17 I've been on golf trips with this guy.

18 THE COURT: Really.

19 MR. MARTIN: Yeah. I thought he looked kind of
20 familiar yesterday. Until he stood up here today and got close
21 to him. I mean, we were in a group of 12. We were in Myrtle
22 Beach. We were in Hilton Head three times over the last ten
23 years. Last trip was about six years ago.

24 MS. RHODES: Well, you made a big impression with him,
25 too.

1 MR. MARTIN: Doesn't surprise me, because every time we
2 would need him, he was in Pittsburgh. He would fly from
3 Pittsburgh to here. And we would meet him at BWI, it would be 7
4 in the morning, and he would be on his sixth or seventh Coors
5 Light by 7 in the morning. So I'm not surprised he doesn't
6 remember. He could drink 24 beers in one round of golf. And
7 did.

8 THE COURT: What's that? One and a third per hole?

9 MR. MARTIN: Something like that, yeah. He was a good
10 player. He's a good rougher. At the turn, he had to come in and
11 get 12 beers. These were all for himself.

12 THE COURT: All right. Belinda, how are we doing?
13 Just a moment, counsel.

14 Does anybody have readily -- first of all, are there
15 any motions?

16 MR. MARTIN: Your Honor, there's two, I think. I think
17 I need a minute to consult with co-counsel, Your Honor. I don't
18 want to step on their toes.

19 THE COURT: All right. Maybe what we should do, it's
20 now just about noon. I'm wondering if we should excuse the jury
21 for lunch and bring them all back. By the time, because you
22 folks will have to work during lunch.

23 MR. MARTIN: Right.

24 THE COURT: So you'll be ready to go if I bring them
25 back at 1:00. I think that's how we should do it.

1 How much time are you going to want for opening?

2 MR. HARDING: Judge, we're going to have to pick the
3 jurors. I think we might need a little bit more than one hour
4 for lunch. That's my only concern.

5 THE COURT: All right. 65 minutes.

6 MR. HARDING: My opening is going to take a little more
7 than an hour. And maybe, I can't, I've never actually timed it,
8 Your Honor. But I'm confident it's well short of two hours.

9 THE COURT: Okay. How much time you want?

10 MS. RHODES: I think I'm going to need about 45
11 minutes.

12 THE COURT: And Mr. Martin?

13 MR. MARTIN: I haven't decided yet, Your Honor. But I
14 think I'm going to reserve.

15 THE COURT: Okay.

16 MR. PYNE: Mr. Crowe's doing it but I think he'll take
17 15 minutes.

18 MS. RHODES: Not more than 25 here.

19 THE COURT: Okay. And Mr. Coburn?

20 MR. COBURN: Less than half an hour.

21 THE COURT: Okay. We'll get it done. I'm on a panel
22 over at the Circuit Court at 5:00. So I really need to get out
23 of here by 20 of or quarter of. But I think we're going to be
24 okay. I'll excuse the jury until 1:15. Okay?

25 (End of bench conference.)

1 THE COURT: Members of the jury, once again, let me
2 express my sincere appreciation for your conscientious
3 participation in this process. Owing in part to your
4 conscientiousness, it has taken slightly longer than I
5 anticipated. But it was thorough and complete. And again, we
6 all thank you for the seriousness of purpose with which you have
7 approached your responsibilities as prospective jurors in this
8 case.

9 Because it is now noon and because it will take a few
10 minutes for counsel to review their notes and to make their final
11 selections, rather than have you sit here while they do that,
12 I've decided to take a luncheon recess at this time and have you
13 return, let's say, at 1:20 this afternoon by the clock in the
14 courtroom. So that's approximately 80 minutes you will have for
15 lunch.

16 During the luncheon recess, counsel will be able to
17 review their notes and review your answers to the questions that
18 have been asked better to enable them to make their final
19 selection. So what I expect is that when we resume this
20 afternoon, we will be ready immediately to select the jury. And
21 that should not take literally more than five or ten minutes
22 because, as I say, counsel, during the luncheon recess, will have
23 reviewed everything they need to review.

24 So while there will be a number of you who will not be
25 selected, you will need to return after lunch. And I regret, I

1 told you yesterday that I thought we'd finish before lunch and
2 that those of you who are not selected would be free to go. I do
3 assure you that you will be free to go if you're not selected
4 well before 2:00 this afternoon.

5 Those of you who are selected, of course, will remain
6 with us this afternoon and we will proceed with the trial and
7 we'll be in session, I think, until about 4:30 this afternoon.

8 So once again, we will adhere to precisely the same
9 procedure as we have followed this morning. No later than 1:20
10 this afternoon by the clock in the courtroom, approximately 80
11 minutes from now, please assemble in the Fourth Floor jury room.
12 Make yourself comfortable up there. Just about at 1:20 my law
13 clerk will greet you again and ask you all to return to this
14 courtroom, come into the courtroom, have a seat wherever you
15 like. And we will select the jury almost immediately. And those
16 of you not selected will be excused with our thanks.

17 In the meantime, during the luncheon recess, you know
18 my instruction. Have no discussion about any aspect of the case
19 with anyone. Do not discuss any aspect of the voir dire process.
20 Do not discuss any of the answers that you gave here at the bench
21 with anyone. And enjoy your lunch.

22 The jury is excused until 1:20, that is 80 minutes from
23 now, to reassemble on the Fourth Floor jury assembly room in this
24 courthouse.

25 (Jury exits the courtroom at 12:02 p.m.)

1 THE COURT: Thank you, counsel. If our math is
2 correct, and you may not know it, but Belinda got a Master of
3 Science in mathematics, it appears we're going to start the
4 afternoon with 62 jurors, assuming they all come back. So I am
5 of a mind to give the defense a total of 42 strikes. I'm sorry.
6 Did I say 42? I meant, I meant 32. Effectively eight for each
7 defendant to be exercised jointly. So I'm hoping that that will
8 obviate any need for motions for cause. But of course when we
9 come back, if anybody really needs to make a motion for cause,
10 I'll be glad to entertain that. The government will get its
11 normal six.

12 MR. HARDING: Judge, could I --

13 THE COURT: And we will have five alternates. So the
14 government and the defense each will get three strikes under the
15 alternate line. Yes, Mr. Harding.

16 MR. HARDING: Judge, I thought we discussed this once
17 in court. And I've had experience with this in other cases in
18 the past. The courts have, in my experience, for example, Judge
19 Nickerson in a case I did a few years ago against codefendants of
20 Anthony Jones, there were eight defendants in that case on trial.
21 And the judge expanded the number of defense peremptory strikes
22 but conditioned it upon a proportional increase in the strikes
23 available to the government. In other words, he attempted to
24 preserve the ten and six ratio, which is in the rule and which
25 case law, it's my recollection, seeks to preserve even when the

1 number of strikes is increased.

2 In other words, the ten to six ratio carries with it a
3 presumption that that's fair. That's fairness.

4 THE COURT: Except the rule doesn't say the court may
5 grant additional peremptories to the government. The rule
6 explicitly says the Court may grant additional peremptories to
7 the defense. And I understand and I have no criticism of Judge
8 Nickerson if he wants to condition the exercise of his
9 discretion, or any judge, in conditioning an award of additional
10 peremptories to the defense on the defense's acquiescence in the
11 government getting a few more.

12 MR. HARDING: Exactly. That's exactly.

13 THE COURT: But I don't find it appropriate to do that
14 in this case.

15 MR. HARDING: Well, Your Honor, the government
16 strenuously objects to that.

17 THE COURT: So noted.

18 MR. MARTIN: Your Honor --

19 THE COURT: If the government wants additional
20 peremptories, they ought to talk to the Rules Committee and get
21 the rule amended.

22 MR. MARTIN: Your Honor, just one thing before we go.

23 THE COURT: Yes, Mr. Martin.

24 MR. MARTIN: I have had this happen before and it
25 sounds like a stupid question, but will we be striking from the

1 top of the list or the bottom of the list?

2 THE COURT: Mr. Martin, you were around for, what was
3 it, Peanut King, or one of those cases during that era. It is
4 not a stupid question. We will strike from the top.

5 MR. MARTIN: Thank you.

6 THE COURT: In fact, I'll remind you. What we do now,
7 in fact, this list came in in correct chronological order. But
8 you probably remember, every now and then you'll get a jury list
9 that's in reverse chronological order. Now, I'm not suggesting
10 that that was a good fix. But the idea was you always start from
11 the top of Page One and sometimes, in effect, you'll be starting
12 at the end of the jury pool because the numbers are reversed.
13 Anyway, yes. We're going to start at the top of Page One.

14 Counsel, as you heard me tell the jury, I will expect
15 you to work diligently over the luncheon recess and show up at
16 1:20, fully prepared to hand Belinda your sheets. And I remind
17 you as well that immediately upon handing her your sheets, you
18 will also hand her your, the list with the information on it.
19 And if you've made any photocopies during the overnight recess
20 for any reason, you will also hand those to Belinda. All right?

21 Anything else?

22 All right. I don't expect at all to take a recess
23 between impaneling the jury and opening statements. So what I
24 expect to do is impanel the jury, wish our overage farewell, go
25 immediately into my preliminary instructions. Well, I will take

1 a recess. I'll take a quick recess. Belinda can show the jury
2 the jury room. They can take their personal property in there.
3 But then I expect to come immediately, bring the jury immediately
4 back out after maybe five or ten minutes, give my preliminary
5 instructions, and go immediately into opening statements.

6 I anticipate that we'll have the government's opening
7 and Ms. Rhodes's opening, then take a recess, and then complete
8 the other recesses, the other opening statements. And I'm
9 counting on Mr. Martin reserving. But he may not.

10 Yes, Mr. Lawlor?

11 MR. LAWLOR: Your Honor, I don't have the strikes but I
12 believe some of my colleagues have additional motions for cause
13 before we are excused and before Belinda gives us the final
14 sheet.

15 THE COURT: What I'm trying to do by giving you the
16 extra 22 is to obviate any need for strikes for cause.

17 MR. LAWLOR: I'm only an adversary.

18 THE COURT: I understand. I understand.

19 MR. LAWLOR: In fact, I'm going to just tell, it was
20 Mr. Martin who sent me up there, Your Honor.

21 THE COURT: I'm only going to --

22 MR. MARTIN: Your Honor, consider it done.

23 THE COURT: Okay. All right. Mr. Kurland.

24 MR. KURLAND: Good afternoon, Your Honor.

25 THE COURT: You know you're eating into the lunch hour.

1 MR. KURLAND: I understand that. I'll be very brief.
2 Before opening statement, there were a couple of, I'll call them
3 housekeeping issues, but they more go to certain kind of unclear
4 evidence issues that I thought --

5 THE COURT: Can you mention them real quick now?

6 MR. KURLAND: Yeah. There's a couple issues with
7 respect to the status of some alleged coconspirators' statements
8 issues, which I found the Court's latest rulings. I just want to
9 speak to the parameters, and some other issues with regard to the
10 last point with respect to the defendants' pro se pleadings of
11 which the Court filed, as the Court is aware, obviously, you
12 filed a published opinion on.

13 And I just want to make sure it's on the record that
14 any reference to that, it's our position, impinges on their Sixth
15 Amendment rights and legal issues and legal defenses, even as
16 unpopular or as meritless allegedly as they are, really are not
17 part, cannot be a criminal act. And the Court's own written
18 order with respect to rejecting the jurisdictional defense is,
19 the Court didn't indicate that it was responding to a criminal
20 act. So I just want to put on the record that any reference to
21 the pro se pleadings would be strange, we object to that. We
22 think that that should not be admitted at all. And the
23 government should not be allowed to, should mention that.

24 Also with respect to Mr. Gardner's prior convictions,
25 that shouldn't be mentioned in the opening. And the other

1 specific thing has to do with, at least that I'm particularly
2 aware of, has to do with Montgomery's alleged statement, but I
3 think there are other ones as well, which the Court's ruling
4 right now, after looking at a lot of material, was that under the
5 state of the record the Court looked at, was not a
6 coconspirator's statement.

7 I know that the Court indicated that, well, we'll see
8 how the evidence goes at trial. But the current state of the
9 record is that Gardner's alleged statement to Montgomery doesn't
10 qualify as a coconspirator's statement and, therefore, can't come
11 in as a coconspirator's statement as of right now. And any
12 reference to that is going to raise Bruton problems and probably
13 severance problems and mistrial problems.

14 THE COURT: Okay. Thank you for highlighting that, Mr.
15 Kurland. I'm going to perhaps take a risk. I'm going to rely on
16 Mr. Harding's good judgment not to mention anything that's even
17 remotely dicey at this point. But I'm just going to rely on
18 that. I'm not going to try to parse all of that today.

19 MR. KURLAND: I take it you do not want, then, counsel
20 during the opening -- this is a standing objection? If we feel
21 that he's violated that --

22 THE COURT: Absolutely. You made your record on that
23 score.

24 MR. KURLAND: Okay.

25 MR. HARDING: Judge, could I nevertheless --

1 THE COURT: You broke the rule.

2 MR. HARDING: Could I speak to that briefly?

3 THE COURT: Okay.

4 MR. HARDING: The pro se motions are significant
5 because they show the defendants acting in concert even now. And
6 it's in the context of what their whole demonstration campaign in
7 this courtroom, the pro se pleadings announce the same arguments.
8 And they show, just because they're identical pleadings, how much
9 the defendants are acting in concert.

10 The government does not believe they're in any way off
11 limits or out of bounds for use in evidence in this case.

12 The government also cannot do this case until it
13 mentions the facts that the defendants were incarcerated from
14 time to time. These defendants were locked up periodically.
15 They continued their criminal activities while they were locked
16 up. The government has no intention of mentioning the fact that
17 they were convicted of crimes or that they had --

18 THE COURT: Right.

19 MR. HARDING: -- a trial and lost the trial or anything
20 like that. But the government needs to, the government cannot
21 try this case without referring to the fact that the defendants
22 were incarcerated.

23 As for the coconspirators' statements, I don't have any
24 intention of mentioning those statements in my opening. I
25 intend, however, to describe the events as I believe they

1 happened. And how I believe they happened and how the government
2 is prepared to argue they happened correspond to some information
3 that was also in coconspirators' statements.

4 THE COURT: Okay. Again, I've made my position clear,
5 I think. Does anybody want a, as a part of my preliminary
6 instructions, an admonishment to the jury that simply because a
7 defendant is detained pending trial that there's no adverse
8 inference to be drawn from that and that the presumption of
9 innocence surrounds a detained defendant every bit as much as one
10 who is released pending trial? I assume that's acceptable?

11 MS. RHODES: Yes, Your Honor, that is.

12 THE COURT: Okay. So I will include that in my
13 preliminary instructions. All right.

14 MS. RHODES: Your Honor, I have a separate concern
15 about what Mr. Kurland was raising. And my position is that I am
16 intending in my opening to respond to the government's allegation
17 that this is part of the conspiracy. And so I would be referring
18 to documents that have been filed. Is that all right with the
19 Court?

20 THE COURT: Absolutely. Mr. Kurland's objection on
21 behalf of Mr. Gardner is preserved.

22 All right. We're in recess until, let's make it 1:30.
23 1:30 this afternoon.

24 (Luncheon recess at 12:18 p.m.)

25 THE COURT: All right, counsel. We have 62 jurors.

1 The Court's allowing the defense an additional 22 strikes, for a
2 total of 32, to be exercised jointly. The government will have
3 six strikes. We will select five alternates and each side will
4 be awarded three strikes for the alternate pool. That should
5 leave us, if there are no duplicate strikes, with a single juror
6 remaining from the pool.

7 I'll be happy to entertain any requests for
8 consideration of motions for strikes for cause. Does the
9 government have any?

10 MR. HANLON: No, Your Honor.

11 THE COURT: Does the defense have any?

12 MR. MARTIN: No, Your Honor.

13 THE COURT: Very well. The jury should be coming in
14 momentarily. Please, if Belinda hasn't already, she'll give you
15 your strike sheets. And she'll draw a line at Juror Number 50,
16 not Number 50, but at the fiftieth remaining juror.

17 So the regular strikes will be taken above the line.
18 The alternate strikes will be taken below the line.

19 Have counsel shared any exhibits you wish to use in
20 opening statement?

21 MR. HARDING: Your Honor, I have maps and an
22 organizational chart.

23 THE COURT: Okay. There will be time to do that.
24 We'll take a brief recess.

25 Mr. Coburn, have you shared your exhibit?

1 MR. COBURN: Not yet, Your Honor, but I'm happy to do
2 it.

3 THE COURT: You can do it. We'll take a brief five,
4 ten minute recess after the jury's seated.

5 MR. COBURN: Appreciate it, Your Honor.

6 THE COURT: Do you need to speak to someone, ma'am?

7 MR. HARDING: She's our paralegal.

8 THE COURT: Oh, all right.

9 MS. RHODES: Your Honor, if it's okay with the Court,
10 my associate is sitting back there for now.

11 THE COURT: Certainly.

12 MS. RHODES: Thank you.

13 THE COURT: Mr. Martin, are you able to say whether you
14 for sure will or will not waive?

15 MR. MARTIN: I'm going to reserve.

16 THE COURT: Not waive, reserve.

17 MS. RHODES: While we're waiting, I also will have a
18 couple of CD's playing through here. So I might need a couple
19 minutes after Mr. Harding proceeds to set up.

20 (Prospective jurors enter the courtroom.)

21 (Counsel exercised the right of peremptory challenge.)

22 THE COURT: Ladies and gentlemen, good afternoon again
23 and thank you for your continued cooperation. I will now recite
24 the numbers of those jurors who have been selected to preside in
25 this proceeding. As I call your number, please take a seat in

1 the jury box.

2 The first juror will take the seat on the front row in
3 the corner closest to the bench. Jurors in line will then fill
4 in the front row, and then the last seat on the back, all the way
5 across.

6 Juror Number 11. Please bring your property with you
7 when you take your seat. Juror Number 19. Juror Number 87.
8 Juror Number 108. Juror Number 143. Juror Number 152. Juror
9 Number 152. Juror Number 244. And Juror Number 299. Juror
10 Number 308. Back row, please. Juror Number 313. Juror Number
11 315. Juror Number 330. Filling in the back row. Juror Number
12 387. Juror Number 402. Juror Number 407. Juror 410. And Juror
13 Number 413.

14 MR. LAWLOR: Your Honor, could we approach briefly?

15 THE COURT: Yes, come on up.

16 (Bench conference on the record.)

17 MR. LAWLOR: Your Honor, just keeping track of this
18 stuff is always difficult. But I tried to keep a list of who we
19 kept and who we struck and didn't strike and who the government
20 struck. After 330, which consists of five government strikes and
21 11 jurors that we didn't strike.

22 THE COURT: I'm sorry. Could you tell me what the
23 point is first and then start --

24 MR. LAWLOR: The point is, I think it appears that your
25 list doesn't match up with the list that we utilized because

1 Juror 413 is past the point of where we were striking for
2 alternates, I believe.

3 THE COURT: Okay. Say that one more time. First of
4 all, with respect to the regular panel, the 12.

5 MR. LAWLOR: Correct.

6 THE COURT: Do you have a problem?

7 MR. LAWLOR: Yes.

8 THE COURT: And what is the problem?

9 MR. LAWLOR: The problem is, if my math is right --

10 THE COURT: Not your mathematics. Just tell me what
11 your problem is.

12 A JUROR: Jurors 331, 343, 3 --

13 THE COURT: One at a time. 331 is what?

14 A JUROR: Your Honor, the issue is there are four
15 jurors that just --

16 THE COURT: Can we start --

17 MR. LAWLOR: That the government would not have been
18 able to strike if they only had used six strikes.

19 THE COURT: Say that one more time so that I can
20 process it. You believe --

21 MR. LAWLOR: I believe.

22 THE COURT: -- that there are --

23 MR. LAWLOR: Four.

24 THE COURT: -- that the last four jurors seated --

25 MR. LAWLOR: Right.

1 THE COURT: -- are too deep in the list.

2 MR. LAWLOR: Given the number of government strikes and
3 given the list I have of the strikes utilized by the defense
4 collectively.

5 THE COURT: I think I'm not following. I'm sorry.

6 MR. LAWLOR: Let me try to walk you through it, Your
7 Honor. I kept a list of strikes.

8 THE COURT: Do I have the defense strikes? They're all
9 on this one sheet. Okay. All right. Go ahead, Mr. Lawlor.

10 MR. LAWLOR: Okay. I kept a list of the jurors that we
11 did not strike.

12 THE COURT: I think I counted them. Did I count 31 or
13 30 strikes?

14 MR. LAWLOR: 30 strikes for the defense.

15 THE COURT: 30 strikes for the defense. All right.

16 MR. LAWLOR: The last juror you seated, Juror Number
17 11.

18 THE COURT: Juror Number 11. Okay. Is juror --

19 MR. LAWLOR: That's Juror 12. You know what, Your
20 Honor? This is my math mistake. You got to 330. That's the
21 twelfth juror. We then skip into the alternates. This is my
22 math error. Disregard it. I apologize.

23 THE COURT: Okay. No problem. No problem. While
24 you're here, Mr. Coburn, go ahead.

25 MR. COBURN: Thank you so much. And I guess I should

1 preface this with sort of a sense that I feel badly. But I'm
2 raising a Batson challenge.

3 THE COURT: Please don't apologize.

4 MR. COBURN: Thank you, Your Honor. Juror Number 331,
5 if my records are correct, had to have been a government strike.

6 THE COURT: And therefore what?

7 MR. COBURN: We know absolutely nothing about this
8 juror. She never came up, at least according to my records. I
9 don't have one word in my notes about her. She is, if I'm not
10 mistaken, an African-American female. She's a military employee.
11 And I cannot fathom any reason, any basis on which she could have
12 been struck.

13 The government, I have no idea why they would have
14 struck that juror other than for a reason covered by Batson.

15 THE COURT: Okay. Do you have any other Batson type
16 challenges?

17 MR. COBURN: No.

18 THE COURT: All right. Well, I don't think you've made
19 a prima facie case. The 12 jurors have four African-Americans by
20 my count. Of the 62 jurors remaining, 10 were African-American
21 on visual inspection. And I believe that a jury as
22 representative as that, namely 4 out of 12 being
23 African-American, one-third, the jury is more representative on
24 the basis of race than the panel, the remaining panel from which
25 they were chosen.

1 So I don't believe a prima facie case has been made and
2 the government's not being called upon to explain its strike of
3 juror -- is it 313?

4 MR. COBURN: 331, Your Honor.

5 THE COURT: 331. According to my record,
6 African-American.

7 MR. HANLON: Your Honor, if I may, just to avoid any
8 confusion, I don't believe the government did strike that juror.
9 331?

10 MR. COBURN: Because I don't think we struck --

11 MR. KURLAND: We did not. It was not a defense strike
12 in my notes.

13 MR. HARDING: It was not a government strike.

14 THE COURT: She would have been the next juror.

15 MR. COBURN: Sorry, Your Honor.

16 THE COURT: Quite all right.

17 (End of bench conference.)

18 THE COURT: Ladies and gentlemen seated in the gallery,
19 you have our heartfelt and sincere thanks. You have spent two,
20 nearly two full days here. You have participated in this process
21 as conscientiously as I have ever seen a group of citizens
22 participate in the voir dire process. And I and the court staff,
23 and I know that counsel and all the parties to this case, thank
24 you for the manner in which you have conducted yourselves.

25 I hope that the voir dire process was a learning

1 experience for you. I hope that you leave here, though you
2 weren't chosen, fortified in your belief that our criminal
3 justice system is, if not the best in the world, I happen to
4 think it is, certainly among the best. And we should continue to
5 do all we can to make sure it remains the best.

6 Thank you very much. You are excused.

7 (Remaining prospective jurors exit the courtroom.)

8 THE COURT: Ladies and gentlemen in the jury box, once
9 again, good afternoon to you and thank you for your participation
10 in this important process.

11 Obviously, now, as you know, the parties to this case
12 have selected those of you in the jury box as being among the
13 most highly qualified from that large group of very qualified
14 individuals to serve as jurors in this case and to perform your
15 important civic responsibilities.

16 I will have a few preliminary instructions for you,
17 after which we will take a very brief recess. And Ms. Arrington
18 will introduce you to what will become your home away from home
19 for the coming weeks, namely the jury deliberation room, which I
20 hope and expect that you will find comfortable, spacious. Though
21 it has no windows, I think you will be able to make yourself
22 comfortable there, as I say, in making it your home away from
23 home during the trial.

24 Let me begin by reiterating some things I've said to
25 you already. Throughout these proceedings, the presumption of

1 innocence which surrounds and protects each defendant stays with
2 the defendant every day in every court session, right up until
3 the very moment when you are excused several weeks from now to
4 begin your deliberations, and as a result of those deliberations,
5 if you so find beyond a reasonable doubt that the presumption of
6 innocence has been pried away and you are convinced of a
7 defendant's guilt.

8 The process of a criminal trial is not like television.
9 It's not like a play that's been scripted. It is a human
10 endeavor. And I can warn you right now that I'm sure there will
11 be some delays along the way. There will be times when I will
12 tell you we will start at 9:30 and we may not start at 9:30.
13 There will be times when I will tell you that we will start at
14 2:00 after lunch and we won't start at 2:00.

15 I promise you that I will do everything possible in my
16 power, and I know I have counsel's agreement in this with me, to
17 minimize delay and to avoid disruptions in the trial so that when
18 you're in this courthouse, basically, we want you to be in the
19 jury box, which is to say we want the trial to be proceeding. We
20 do not wish and I do not intend to leave you sitting in the jury
21 room through lengthy delays during this trial.

22 But I tell you this now because unavoidably, there will
23 be delays and there will be times when you'll be sitting back
24 there wondering what the problem is, why haven't we gotten
25 started. That will happen. I promise I will see to it that it

1 happens as little as possible.

2 Just to explain to you what I mean. My chambers, my
3 office is actually on the Fifth Floor of this building. So every
4 time we take a recess, for me to go up to my office and tend to
5 other matters during the recess, I have to get on the elevator,
6 go up, and then I have to come down when we're ready. That's not
7 an excuse and it won't contribute to significant delays. I just
8 mention it as one of the kinds of things that may contribute to
9 some delays from time to time.

10 As I told you, our schedule will generally be, we'll
11 start at around 9:30 each day. That's the target, 9:30. You
12 will be free to arrive here at the courthouse pretty much
13 whenever it's comfortable for you to arrive at any time after
14 about 8:15.

15 We will have a 15 minute recess each morning, usually
16 between 11 and 11:15, somewhere in there. We'll break for lunch
17 each day generally at about 12:45. And we'll resume in the
18 afternoon generally at 2:00.

19 We'll have a brief afternoon recess at around 3:15 or
20 so, 3:30. And we'll go each day until about five. Some days
21 closer to 4:30. Some days maybe a few minutes after five. But
22 rarely will I keep you past 5:00.

23 Tomorrow I will hand out to you the actual schedule for
24 the trial. As I mentioned during the voir dire, there are some
25 days we already know we will not be in session. So on those days

1 you will be free to go about your business, work, family matters,
2 whatever it is you may be committed to.

3 So you will have that schedule. Obviously, it's only a
4 schedule and there may be changes. But I feel confident in the
5 schedule that we have arrived at.

6 I can tell you now that the week of October 20th, I
7 believe the 20th is a Monday, we will not be in session at all.
8 So you will have that entire week off from the trial. That will
9 be on the list that you will receive tomorrow.

10 Now, on the other hand, there is the possibility that
11 the case could finish before October 20th. I don't think that's
12 likely but it is possible.

13 So we have, I have planned essentially eight to ten
14 weeks for this trial, which will take us pretty much right up to
15 Thanksgiving. I assure you we will not be in session on the
16 Wednesday before Thanksgiving, if the trial, in fact, takes that
17 long. And we will not be in session, of course, on either
18 Thanksgiving Day or the day after Thanksgiving, which is a
19 courthouse holiday.

20 Likewise, Columbus Day, the federal holiday, which is
21 the third Monday in October, we won't be in session. And on
22 Veterans Day, November 11th, we will not be in session.

23 There will be two Fridays when we will be in session.
24 And again, that will be indicated on the schedule that I will
25 give you tomorrow. Generally, however, we will not be in session

1 on Fridays at all so you will be free to go about your personal
2 matters on Friday.

3 One of the happiest aspects of the voir dire for me
4 was, unless I missed it, I never heard any juror's cell phone go
5 off. And I'm sure you all were told, probably more than once,
6 how important it is to turn off your cell phones. And I
7 appreciate the conscientiousness with which you all adhere to
8 that advice. I suspect probably all of you have cell phones or
9 pagers.

10 While some judges won't let jurors hold on to cell
11 phones, and I don't criticize those judges, I do not. My rule is
12 you are allowed to have your cell phones, Blackberrys and pagers
13 with you during jury service in the courthouse but you must be
14 absolutely certain to turn them off before you come into the
15 courtroom. During recesses, if you need to check on child care
16 or call in to work or check with your family, you're free to do
17 that from the jury room. But be sure to turn off your cell
18 phones whenever you are in the courtroom, before you come into
19 the courtroom.

20 Now, the one exception to this rule is when you begin
21 your deliberations, weeks hence, once you begin your
22 deliberations, there can be no use of cell phones or mobile
23 communication devices of any sort during your deliberations.

24 Now, I have told you repeatedly that you must not
25 discuss the case and that instruction has even greater force now

1 that you are actually selected to serve on this jury.

2 As I mentioned, I believe, yesterday, sometimes jurors
3 mistakenly believe that they can do a better job if they do a
4 little bit of research, if they visit some of the locations that
5 might be mentioned in the evidence, that they look up some words
6 either online or in dictionaries, or perhaps if they talk to a
7 cousin or friend who may be a lawyer or a legal secretary or
8 something. I assure you none of that is appropriate.

9 And I instruct you and I will instruct you on a regular
10 basis not to discuss the case or any evidence you've heard, not
11 to conduct any kind of research or investigation of any sort
12 whatsoever. Don't go to any book or printed material to try to
13 educate yourself about any matter involved in this case.

14 The education you will receive and what you need to
15 reach a fair and impartial verdict in this case will be either
16 given to you here in this courtroom or you already have with you.
17 What will be provided to you will be the evidence in the case and
18 my instructions on the law, which are binding on you and which
19 you will apply to the evidence when you begin your deliberations.

20 What you bring with you, as I said yesterday, and what
21 we count on very heavily, is your mature judgment and your common
22 sense. So don't worry about becoming a better juror. You are
23 already an excellent juror. You've been selected because all
24 these lawyers and their clients have determined, based on very
25 careful questioning and your answers to those questions, that you

1 are the best people to try this case.

2 So your decision must be based on the evidence. What
3 is evidence? Well, evidence, of course, is, and primarily, the
4 live witness testimony that you will hear from people who will
5 come into the courtroom, take an oath, sit in that witness chair
6 right there, and look at you and answer the lawyers' questions.

7 Evidence will also include the many exhibits that will
8 be admitted by the Court for your consideration. Exhibits will
9 include virtually every kind of exhibit known to the law in this
10 case. There will be, I'm told, actual narcotics perhaps, or
11 photographs of narcotics. There will be documents showing
12 chemical examination of narcotics. There will be photographs.
13 There will be diagrams. There will be maps. There will be
14 transcripts of conversation.

15 In this case, in fact, there will be rap music and rap
16 music lyrics. There will be recorded conversations, some of them
17 where people knew they were being recorded and some of them where
18 people didn't know they were being recorded.

19 All of this material which will be admitted by the
20 Court will comprise the evidence that will be available for your
21 consideration. And with very few exceptions, such as firearms,
22 if any, and narcotics, if any, the exhibits that are admitted
23 into evidence will be available to you in the jury room during
24 your deliberations.

25 As you can see, we have an electronic evidence system

1 in this courtroom. The three monitors there in front of you are
2 for the purpose of permitting you to see exhibits as they are
3 introduced during the trial.

4 In the old days, of course, before electronic systems,
5 when an exhibit was introduced into a courtroom, basically the
6 lawyer either had to make a copy for every juror or the exhibit
7 had to be handed to the jury, and one by one each juror took a
8 look at it. There may be some exhibits that fall into that
9 latter category in this case, where we will hand you the exhibit,
10 you will examine it, and pass it to your neighbor. But for the
11 most part, the lawyers have been trained to use the evidence
12 system.

13 So an exhibit will simply be placed on the document
14 camera you see there and its image will be projected to us on
15 these video monitors. This will help move the case along and
16 avoid delays.

17 If at any point during the presentation of evidence you
18 can't see an exhibit or you can't hear the testimony, or for any
19 other reason you're just not getting the information that's being
20 provided to you, please don't hesitate to raise your hand, speak
21 up, let us know you can't see or hear, and we'll make the
22 appropriate adjustment.

23 Evidence might also include what are called
24 stipulations. Now, a stipulation is simply an agreement between
25 the parties to a lawsuit that certain matters may be accepted by

1 the jury without any further evidence. So if the parties should
2 make an agreement that a certain thing is true or that a certain
3 thing is so, you may accept that stipulation as some proof of
4 that matter. So this is what we mean by evidence in the case.

5 It's also important for you to know what is not
6 evidence. And first and foremost, of course, the statements of
7 the lawyers are not evidence. When we come back from our recess
8 in a moment, we will begin the trial with what's called opening
9 statements. This is the opportunity for the lawyers to, if you
10 will, give you a road map of what they believe the evidence in
11 the case will show or not show, and perhaps to talk about some of
12 the laws that are applicable in the case. But basically to give
13 you a head start so that you can anticipate what is expected to
14 be evidence.

15 But again, what the lawyers say in opening statement
16 about the evidence is not itself part of the evidence.

17 Similarly, at the end of the case, before you begin
18 your deliberations, the lawyers will have an opportunity to make
19 what is called closing argument. This is their opportunity to
20 summarize the evidence that you have heard and seen and to urge
21 you to draw conclusions favorable to their side of the case.
22 Again, just as with opening statements, what the lawyers say in
23 closing argument about the evidence is not in any way, shape or
24 form part of the evidence.

25 Similarly, when a lawyer asks a question of a witness

1 on the stand, the question asked by the lawyer is not evidence.
2 It is the witness' answer to the question that is part of the
3 evidence for your consideration.

4 Now, in any trial, whether it's three days or three
5 months, there will be objections by lawyers to certain questions
6 or to the offer of certain evidence to the Court. Part of my
7 role here in making sure that we have a fair trial is to rule on
8 those evidentiary objections by counsel.

9 Sometimes you will hear me say "overruled" and
10 sometimes you will hear me say "sustained." If you hear me say
11 "overruled" in response to an objection by one of the lawyers,
12 then that means that I reject the lawyer's objection, I think the
13 question is proper or the matter that has been offered into
14 evidence is appropriate, and it will be admitted, or the question
15 will be answered.

16 On the other hand, if you hear me say "sustained", that
17 means either for the reason that the lawyer is thinking of or for
18 some other reason I agree with the lawyer that the question is
19 not appropriate or the matter that has been offered should not be
20 received.

21 These rulings on objections to evidence -- and this is
22 an important part of every lawyer's job, so don't be disturbed if
23 a lawyer objects and don't be disturbed if a lawyer objects
24 frequently. It's a part of the lawyer's job. My rulings on
25 these objections, again, are simply matters of law called on by

1 law for the Court to make. And you should not be disturbed or
2 concern yourself in any way with why I may overrule certain
3 objections or sustain certain objections, because these are legal
4 matters about which you are not concerned.

5 Your concern is, as I've said repeatedly, listen to the
6 evidence and evaluate it using your common sense and good
7 judgment, follow my instructions on the law, and reach a fair and
8 impartial verdict based solely on the evidence presented.

9 If I instruct you to disregard a matter or if, for
10 example, a question is asked of a witness and the witness answers
11 before I've had a chance to rule on the objection and then I
12 sustain the objection, I will tell you to disregard the answer if
13 the answer has been given before I've had a chance to sustain the
14 objection.

15 More generally, you should disregard any matter that I
16 instruct you to disregard because such matters are not part of
17 the evidence. Likewise, of course, anything that you see or hear
18 or learn of outside this courtroom is not a part of the evidence
19 in this case.

20 Now, this case has received some media attention. My
21 suspicion is that, as the trial proceeds, it will receive some
22 media attention. And that's perfectly acceptable and, indeed,
23 perhaps even expected.

24 Court proceedings such as this are public proceedings.
25 And while I intend to somewhat regulate the in and out of people

1 into the courtroom during the trial, because I don't want it to
2 be disruptive, it is a public trial. And so members of the
3 media, members of the public who are just curious or interested,
4 or who know any of the participants, or who just want to come and
5 spend the day in this courtroom, are all free to come in.

6 My instruction to you, and this is critically
7 important, as are they all, avoid any media exposure to this
8 case. Here's what I mean by that. You're driving in in the
9 morning and you're listening to the radio and there's a news item
10 that comes on the radio, and you hear a little piece of it and
11 you think it may be about this case, change the channel, turn off
12 the radio. You're reading the morning paper, watching TV before
13 you leave home, you come across an item that you think may have
14 something to do with this case, don't read the article, don't
15 listen to the broadcast.

16 As far as newspaper articles are concerned, have your
17 family cut out any articles or save on TiVo or however you choose
18 to do it, any reports about this case while you're a member of
19 this jury. And at the end of the case you will be free to read
20 the articles, listen to the broadcast as you choose. But while
21 you're a member of this jury, you are to do everything within
22 your power to avoid any exposure to media reports about this
23 trial.

24 This is so, of course, that your verdict in this case,
25 as is critically constitutionally required, be based solely on

1 the evidence presented in this courtroom and not on the basis of
2 any influence, anything you may have heard outside the courtroom
3 may have on you.

4 If through inadvertence or otherwise you are exposed to
5 some media report, you should let me know in confidence. Don't
6 discuss it with any other juror. Simply write a note to me, hand
7 it to Ms. Arrington, and she will bring it to my attention. And
8 I will determine what, if any, appropriate steps need to be
9 taken.

10 In that same vein, I have no expectation that anyone
11 here at the courthouse, and certainly no one involved in this
12 case, and no one at all, frankly, will talk to you about the
13 case. Nevertheless, as you heard, there are likely to be a large
14 number of witnesses in this case.

15 This is a fairly small courthouse, believe it or not.
16 So you may be over at the snack bar buying a coffee in the
17 morning or buying a snack, or you may be on the elevator one day.
18 Two people who you've never seen before may be standing there,
19 discussing the case. Even outside the courthouse, you may go
20 across the street to have lunch one day and you're sitting there
21 having your lunch in the cafeteria or the restaurant up the
22 street or around the street or around the corner, and there may
23 be a couple of people sitting there, discussing this case. Avoid
24 any such exposure. Change your seat. Walk away from them. Do
25 not remain present where you become aware that people in your

1 presence are discussing this case.

2 If someone tries to discuss the case with you, again,
3 bring that incident to my attention immediately by writing me a
4 confidential note, which you hand to Ms. Arrington, and she will
5 bring it to my attention.

6 Needless to say, as I've said it before and will repeat
7 many times, do not discuss the case or any evidence you've heard
8 with any friends or family during the overnight recesses. Do not
9 discuss the case among yourselves. I know that's going to be
10 weird. It's going to be very strange. You're going to spend
11 weeks and weeks and weeks together, some of it in that jury room
12 which you'll see in a minute.

13 You will have lunch together. Maybe you'll have
14 breakfast together. Maybe you'll have dinner together. But
15 there is to be no discussion whatsoever between two of you or
16 three of you or seven of you at any time about any aspect of the
17 case.

18 Now, when you come back from the jury room in a moment,
19 you will find on your chairs note pads and pens that will be
20 available to you. And on the back of each pad Ms. Arrington has
21 written your new juror number. Your new juror number is Jurors
22 One, Two, Three and so on, to 12. And then Alternate One,
23 Alternate Two, Alternate Three, Alternate Four and Alternate
24 Five. The note pads are being provided to you and you will have
25 as many as you want for your use during the trial.

1 The fact that I am providing you with note pads and
2 pens is in no way a communication from me that I think you need
3 to take notes or that you should take notes. To the contrary,
4 note taking is very much, exceedingly an individual determination
5 for each juror. Some people just aren't even comfortable when
6 they're receiving information the way information is received
7 during a trial unless they have some note paper and they can take
8 notes and follow along. Other people are perfectly content to
9 listen and pay close attention and rely on his or her memory of
10 the testimony and evidence when it comes time to deliberate a
11 verdict.

12 My guess is that some of you will take notes a lot,
13 some of you will take very few, if any, notes. And indeed, on
14 any given day or any given court session, some of you will be
15 taking notes furiously and other jurors won't be taking any notes
16 at all. That is entirely appropriate. And it's expected.

17 So the fact that a particular juror or a group of
18 jurors or several jurors may be taking notes or a lot of notes or
19 not many notes at all is not in any way any indication of whether
20 any particular juror should be taking notes. It's entirely up to
21 you individually.

22 Now, the procedure with the note pads is as follows.
23 At the end of each court session, I will instruct you to close
24 your note pad and, as you leave the courtroom, to leave your note
25 pad on your chair. At the end of each day, Ms. Arrington, among

1 her many, many duties and responsibilities, will collect your
2 note pads, lock them up overnight, and then she will put them
3 back out for you for the next court session.

4 I assure you, she will not examine any notes you make.
5 I will not examine any notes you make. No one will examine any
6 notes you make. But your note pads will not be permitted to be
7 taken into the jury room until after you've heard all of the
8 evidence in the case, my instructions on the law, and counsel's
9 closing argument. And then and only then, as you begin your
10 deliberations, will you be permitted to take your note pads into
11 the jury room.

12 So they are for you and for your use only during
13 deliberations. And you make as many notes as you choose to make
14 during the trial.

15 Now, many cases these days are cases in which the
16 jurors are permitted to ask questions or to suggest certain
17 questions that might be asked of certain witnesses. And I
18 certainly am a judge who supports that development in jury trials
19 in this country. But I have made a determination that for this
20 trial it would not be appropriate to permit jurors to ask or to
21 suggest any questions that should be asked.

22 So your verdict in this case will be based on the
23 evidence presented or the lack of evidence, and based on the
24 questions that are asked only by counsel.

25 You will notice, if you haven't already, that the

1 defendants in this case are in custody. They have been detained
2 during the pretrial stages of this case. The fact that a
3 defendant in a federal trial is detained pending trial or
4 released pending trial in no way changes the force of the
5 presumption of innocence that every defendant enjoys. So the
6 fact that the defendants may be detained pending trial in this
7 case does not in any way take away from the presumption of
8 innocence and the presumption of innocence applies to defendants
9 such as these defendants, who are detained prior to trial, every
10 bit as much as the presumption of innocence pertains to a person
11 who is released before trial. So you should not consider that in
12 any way other than as a recollection that the presumption of
13 innocence protects the defendants in this case.

14 Now, we have five alternate jurors, and we love you.
15 You are very important to us. As I'm sure you all know, the jury
16 that will deliberate a verdict will be a jury of 12 persons. And
17 as we start the trial, we have the 12 regular jurors and we have
18 5 alternate jurors. But again, I emphasize that the alternates
19 are critically important to us.

20 First of all, everything I say to the jury applies
21 equally to the alternate jurors as it applies to the regular
22 jurors. And I will tell you that in the last few trials that I
23 have held, there is frequently an occasion when an alternate
24 juror has to step in to take the place of a regular juror. You
25 can easily imagine that if this trial takes ten weeks or so, we

1 simply cannot predict what personal family emergencies, medical
2 emergencies, or other exigencies which might arise during the
3 trial that would require me to excuse one of the regular jurors,
4 or two or three of the regular jurors, if not all five regular
5 jurors who encounter emergencies, to permit them to withdraw from
6 the case. And if that happens, at that point we will call on our
7 alternates to step in to the seat of a regular juror.

8 And so it's very important that you adhere to all of my
9 instructions that, like the regular jurors, you take notes or not
10 take notes as you choose, and to pay close attention to the
11 proceedings, as I know you will.

12 Only if we get to the very end of the case and the
13 regular jurors have been permitted to begin its deliberations,
14 will you be excused. But even then, you will be excused with
15 instructions. Because even after deliberations have begun, it
16 sometimes happens that it is necessary to recall an alternate
17 juror to step into a regular juror's place.

18 So though we refer to you as alternates, believe me,
19 that is in no way any diminishment of your role. You are very
20 important to us and we are thankful for your presence every bit
21 as much as we are thankful for the presence of the regular
22 jurors.

23 I believe that will conclude my preliminary
24 instructions, ladies and gentlemen. Let me say, as I think I did
25 mention yesterday, from time to time we will need to have bench

1 conferences here. You've experienced what we refer to as the
2 white noise. That's necessary because sometimes I need to speak
3 to counsel outside of your hearing about legal matters and other
4 matters that are of no concern to the jury.

5 I will do my best, and I'm usually pretty good at it,
6 of not having bench conferences other than when it's absolutely
7 essential. Counsel know full well that when they have
8 evidentiary issues and other issues relating to trial management,
9 they should bring these matters up with me either before we start
10 or at the end of the day after you've left or during a luncheon
11 recess.

12 There will be occasions, however, when it will be
13 necessary for counsel to approach the bench and discuss with me
14 some matter of importance that will require me to make a
15 decision, and that those discussions need to take place in
16 confidence here at the bench. But again, we will do our best to
17 avoid having you sit there while we are gathered here, discussing
18 various things.

19 So at this time you will be excused. Ms. Arrington
20 will escort you to the jury deliberation room, which is right
21 behind you. She will also point out to you that after today,
22 starting tomorrow when you come to the courthouse, you will enter
23 the jury deliberation room, not through the courtroom, but
24 through the outer door out into the public hallway. So when you
25 come in in the morning, you will come in through that hallway

1 door and go into the jury deliberation room and wait there until
2 we're ready to start, which I expect, again, to be 9:30 most
3 days.

4 You are also free, if you choose, to use the jury
5 lounge upstairs on the Fourth Floor. If you get here early,
6 let's say, and you don't want to sit in the jury room, jury
7 deliberation room. That lounge upstairs is available to jurors
8 even during the trial. So if you'd rather sit up there, read the
9 paper, what have you, you're free to do that.

10 But I will give you instructions each day as to what
11 time we will start on the following day. And of course, I'll
12 give you instructions before each luncheon recess as to what time
13 you should be back. Being back generally means being back in the
14 jury deliberation room just behind you. That will be your home
15 away from home.

16 There's a refrigerator, a microwave. We do provide
17 some snacks. There's a coffee maker, and there's bottled water
18 for you as well. So you are free to leave your personal property
19 in the jury room when you return to the courtroom.

20 Ms. Arrington, you may escort the jury to the jury
21 deliberation room.

22 (Jury exits the courtroom.)

23 THE COURT: Mr. Harding, are you going to use the
24 document camera in your opening?

25 MR. HARDING: Yes, Your Honor.

1 THE COURT: All right. Ms. Rhodes, what was it that
2 you needed to set up for your opening?

3 MS. RHODES: I just want to make sure that both of
4 these are ready to roll.

5 THE COURT: Did you say you're going to use --

6 MS. RHODES: I have a CD.

7 THE COURT: A CD?

8 MS. RHODES: And I'm going to be using this briefly.

9 THE COURT: Is it a Power Point or what is it?

10 MS. RHODES: No. It's a CD, just audio.

11 THE COURT: Oh, an audio CD.

12 MS. RHODES: Audio daily double. And I can just use
13 the lavaliere.

14 THE COURT: Mary, we're off the record.

15 (Off-record discussion.)

16 THE COURT: Counsel ready to proceed?

17 MR. HARDING: Yeah. Could I just check with Ms.
18 Arrington about --

19 THE COURT: She's checking now. I thought certain they
20 had been but what do I know?

21 MR. LAWLOR: Your Honor, you wondering whether we swore
22 the jury?

23 THE COURT: I'm going to swear the jury when they come
24 back. We're looking to see whether the defendants have been
25 arraigned on the fourth superseding. All right. Let's arraign

1 the defendants. I know that I arraigned them on the third
2 superseding.

3 Mr. Mitchell, Mr. Harris, Mr. Martin, Mr. Gardner,
4 would you each stand, please?

5 THE CLERK: All right. Mr. Mitchell, Mr. Harris, Mr.
6 Martin, Mr. Gardner, have you received a copy of the fourth
7 superseding indictment?

8 MR. COBURN: We have.

9 THE CLERK: And have you read that indictment and
10 understand the charges in it?

11 DEFENDANT MITCHELL: May I review the facts?

12 THE COURT: That's a yes.

13 DEFENDANT HARRIS: May I also review the facts?

14 THE COURT: That's a yes.

15 MR. MARTIN: May I review the facts?

16 THE COURT: That's a yes.

17 MR. GARDNER: I'd like to review the facts, too, sir.

18 THE COURT: That's a yes.

19 THE CLERK: And how do you wish to plead to Counts 1
20 through 14, as to Mr. Mitchell?

21 MS. RHODES: Not guilty.

22 DEFENDANT MITCHELL: I fully accept for value --

23 THE COURT: Plea of not guilty as to each count entered
24 on behalf of Mr. Mitchell. Mr. Harris?

25 THE CLERK: On Counts 1, 2, 3, 4, 5, 6 --

1 DEFENDANT HARRIS: I accept for value --

2 THE CLERK: -- 8, 9, 10, 11, 12, 13 and 14? 18 and 19,
3 fourth superseding indictment?

4 DEFENDANT HARRIS: I accept the fourth superseding
5 indictment for value. I return it for value for --

6 THE COURT: Not guilty pleas entered on behalf of Mr.
7 Harris as to all counts.

8 THE CLERK: Mr. Martin, on Counts 1, 5, 6, 8, 12, 13,
9 14, of the fourth superseding indictment?

10 DEFENDANT MARTIN: I accept it for value, return it for
11 acceptance.

12 THE COURT: Not guilty pleas entered on behalf of Mr.
13 Martin as to all counts in the fourth superseding indictment.

14 THE CLERK: And Mr. Gardner, on Counts 1, 5, 6, 7, 8,
15 12, 13, 14, 15, 16 and 17, of the fourth superseding indictment?

16 MR. COBURN: Not guilty, waive formal reading.

17 DEFENDANT GARDNER: I accept the offer for value,
18 return offer for value.

19 THE COURT: Not guilty entered as to Mr. Gardner on all
20 counts of the fourth superseding indictment.

21 Gentlemen, the Court, I specifically, arraigned you on
22 the third superseding indictment back on February 2nd, 2007.
23 There have been few changes to the indictment, as you are well
24 aware, as filed.

25 As you are aware -- somebody remind Mr. Harding about

1 the switch, the off/on switch -- there have been few changes to
2 the fourth superseding indictment. Correct me if I'm wrong, Mr.
3 Martin. The obstruction count on Mr. Harris, was that added in
4 the third superseding or the fourth superseding? I think it was
5 added in the fourth superseding.

6 MR. MARTIN: I think it was added in the third, Your
7 Honor.

8 THE COURT: In the third.

9 MR. MARTIN: Yes, sir.

10 THE COURT: There's still that outstanding indictment,
11 which has not yet been dismissed in the independent case.

12 MR. MARTIN: That's correct.

13 THE COURT: Yes. The indictment, the fourth
14 superseding indictment as returned, gentlemen, as you are aware,
15 carried with it the possibility of the death penalty because the
16 government filed appropriate notices. However, since the fourth
17 superseding indictment was returned, the government has elected
18 to withdraw those notices so that you no longer face the
19 possibility of the death sentence.

20 However, the maximum sentence you could receive on a
21 number of the counts charged in this indictment is life
22 imprisonment. And indeed, with respect to the firearms counts
23 with which each of you is charged, some of you in more than
24 others, those sentences must be served, imposed to be served and
25 served consecutive to any sentence imposed on any other count.

1 So that you face very substantial punishments if you are
2 convicted on these charges.

3 You may resume your seats.

4 We'll have the jury, please, and we'll swear the jury
5 as soon as they come out.

6 (Jury enters the courtroom.)

7 THE COURT: Good afternoon, ladies and gentlemen.
8 Before you get comfortable, if you would please now stand and
9 direct your attention to Ms. Arrington. Raise your right hand,
10 please, so that you are sworn as the jury in this case.

11 (Jury sworn.)

12 THE COURT: Thank you, ladies and gentlemen. Please be
seated. We will begin the trial now with the opening statements.
14 As I advised you, because the government has the burden of proof
15 in a criminal case, the government gets to make an opening
16 statement first. Defense are not required to make an opening
17 statement and may reserve on making an opening statement later.
18 I do understand that most of the defense counsel on behalf of
19 their clients will be making an opening statement.

20 Mr. Harding, you may proceed whenever you're ready.

21 MR. HARDING: Yes. Thank you very much, Your Honor.
22 Good afternoon, ladies and gentlemen. My name, again, is Robert
23 Harding, and together with Mike Hanlon we represent the United
24 States in this case. We're Assistant United States Attorneys in
25 the District of Maryland.

1 Seated on the back table on the left is Task Force
2 Officer Keith Benson from the Drug Enforcement Administration.
3 In the middle is Special Agent Brian Klas from the Bureau of
4 Alcohol, Tobacco, Firearms and Explosives. And to his right is
5 LaTanya Kelly, who is a paralegal in the United States Attorney's
6 Office.

7 Ladies and gentlemen, an opening statement is like a
8 bird's eye view of the evidence in advance or, as the judge just
9 told you, a road map to show you the direction that we're all
10 headed in this case. It's not going to be possible to present
11 the evidence in chronological order or divide it up into neat
12 subject areas. We have to proceed from one witness to the next.
13 And that means that we're going to be jumping back and forth in
14 time and also from one subject to another subject.

15 So it's important for the attorneys in their openings
16 to give you a sense of how the evidence will ultimately fit
17 together; in short, to give you a road map of where we're all
18 headed in this case.

19 In saying this as a road map, I don't mean to give you
20 the idea that we're all about to launch off on a pleasant trip
21 somewhere together. This trial, I'm afraid, is going to be more
22 like a descent into inferno, into the criminal underworld of
23 Baltimore City and Baltimore County.

24 You may begin to feel, as you listen to the testimony
25 of one witness after another, as though the layers of

1 civilization are being peeled back and you're left face to face
2 with a series of very hideous crimes and with the savagery that
3 some human beings are capable of.

4 We're not going very far geographically in this case,
5 however. Most of the events that you're going to hear about
6 occurred in West Baltimore, in this area here, this is the
7 city/county line right here, and also in the immediately adjacent
8 areas in Baltimore County to the west, in Randallstown, and down
9 in Catonsville. And by West Baltimore I include Southwest
10 Baltimore and the Downtown area.

11 Ladies and gentlemen, three of the defendants in this
12 case, Mr. Mitchell, Mr. Gardner, and Mr. Martin, grew up together
13 in Randallstown. They've known each other since they were kids.
14 They became very tight from high school on. There was a time in
15 the 1990's when Martin's family moved down to Southwest
16 Baltimore. And although they eventually moved back to
17 Randallstown, it's probably because of that that Martin and
18 Gardner and Mitchell, all of them trafficked in narcotics in the
19 southwest area of Baltimore, in the area called Pigtown, around
20 McHenry Street, Pulaski Street, south of Pratt Street. So that's
21 one important area in this case.

22 They also sold drugs, you will hear, in the Savoy
23 Apartments in Randallstown and elsewhere in Randallstown. The
24 Savoy Apartments have been torn down. They don't exist any more.

25 The defendants tended to operate solo in the sense that

1 they owned their own drugs and they made their own profits, but
2 they also depended heavily on one another. They, first of all,
3 had the same suppliers, the same drug suppliers. As you can see
4 on this chart over here, some of the names of their suppliers.

5 They would travel together to go see their suppliers.
6 Some of them were actually in New York City. So some combination
7 of the defendants might leave to take a trip to New York to pick
8 up drugs together. They would buy drugs for one another. They
9 would transport them together. They would also buy for one
10 another. They would occasionally pool their resources, pool
11 their money so they could get larger quantities.

12 And you will hear that they also did things like sell
13 guns to one another. And two of them, Mr. Gardner and Mr.
14 Martin, used to stand on the street sometimes and sell drugs
15 together, also.

16 They helped one another in myriad ways. Most
17 importantly of all, they protected one another. Drug dealers
18 cannot operate solo completely because they need protection like
19 the air they breathe. If a drug dealer is operating alone, he
20 will be a target for a robbery or some kind of assault, or he
21 will be pushed off his turf. They need to have a crew of people
22 who will act on their behalf or protect them if need be. And
23 that's one of the ways these guys helped one another.

24 They also committed robberies together. You will hear
25 from the testimony that they frequently targeted other drug

1 dealers for robberies. Drug dealers are very vulnerable targets
2 for a robbery because, first of all, they have a lot of money,
3 they have a lot of drugs. And finally, they can't call the
4 police when they get robbed. So it's a chronic problem for drug
5 traffickers, that they can be robbed so easily and readily.

6 It's not just these three or four defendants on trial
7 here today that were part of this crew. You're going to hear a
8 lot about some other people who appear inside this red box to the
9 right of the defendants' names. You will hear the names of Will
10 Montgomery and Darryl Bacon and Aaron Holly, and the other names
11 that are there. These guys cooperated with and worked with the
12 defendants over an extended period of time, over years, in both
13 their drug trafficking and their violent crimes.

14 In 1999 or thereabouts, three important things happened
15 that changed the way these guys operated. The first was that
16 they stopped selling on the streets directly to drug users
17 themselves and they started dealing only in weight. That means
18 that they sold wholesale to other drug dealers.

19 Mr. Gardner and Mr. Mitchell, in fact, set up shops for
20 distributing drugs in Pennsylvania. They found they could make a
21 lot more money if they sold in the small towns of central
22 Pennsylvania. And that's what they did. Mr. Gardner set up a
23 shop in Hanover, Pennsylvania. That means he had a crew of
24 people who distributed his drugs in Hanover, Pennsylvania. And
25 Mr. Mitchell distributed drugs in Altoona, Pennsylvania. He had

1 a little crew that worked for him up there.

2 They also had their distributors in Baltimore. Mr.
3 Gardner, for example, also had a guy named Avon who distributed
4 drugs for him in the Park Heights area. And Mr. Gardner and Mr.
5 Montgomery used Aaron Holly to distribute drugs for them in
6 Catonsville, on a street called Winters Lane. And you will hear
7 about some of the other people that these guys used in Baltimore
8 and the surrounding area.

9 The second big change that occurred around 1999 was
10 that Mr. Martin and Mr. Gardner both got locked up for an
11 extended period of time. You will hear that in May of 1999, Mr.
12 Gardner and Mr. Martin were both stopped on I-95 coming south in
13 Cecil County with a large quantity of crack, over 50 grams of
14 crack. Mr. Gardner wound up doing an extended period of jail
15 time as a result of that. And Mr. Martin, although he was not
16 prosecuted for that offense, picked up another charge, a firearms
17 charge the very next month, in June, and he, too, wound up
18 serving a long jail sentence.

19 The point is that they are out of the picture for two
20 to three years. They came back to Baltimore by 2001 but they
21 were in halfway houses or work release programs, and they really
22 weren't back on the streets fully for close to three years. Mr.
23 Martin didn't get back on to the streets until he was released
24 from the Volunteers of America halfway house in early March of
25 2002.

1 And in addition, Darryl Bacon and Will Montgomery were
2 also locked up in this period.

3 So Willie Mitchell is without his usual compatriots
4 during this time period. You will hear that in the late 1990s he
5 actually spent two stints playing college football at colleges in
6 New York and New England. He also, however, ran his drug shops
7 in Altoona, Pennsylvania.

8 And you will hear that in early 2000 he got arrested in
9 Altoona, Pennsylvania, in a house raid up there, and charged with
10 narcotics offenses. And he skipped out on his court date. He
11 made bail and didn't return to court. So a warrant was issued
12 for his arrest and he couldn't go back to Pennsylvania after that
13 because there was an open warrant for his arrest up there.

14 The third change is that Shelton Harris, the fourth
15 defendant in this case, comes into the picture in 2000. Mr.
16 Harris is younger than the other three defendants. Mr. Harris is
17 about 25. The other defendants are all in their low thirties
18 right now. So Mr. Harris is about five, at least five years
19 younger than the other three defendants.

20 He was institutionalized at a juvenile facility in
21 Baltimore called the Charles Hickey School. And he met Mr.
22 Mitchell there, nickname is Bo, because in 2000 Mr. Mitchell
23 actually got a job as a counselor at the Charles Hickey School,
24 and he became very tight with Mr. Harris there. He didn't last
25 long there. He only lasted a couple of months. And when the two

1 of them left at the end of 2000, they stayed together. And they,
2 in fact, formed a little rap music group together.

3 In late 2000 Mr. Mitchell and another man named David
4 Caesar incorporated a company called Shake Down Entertainment.
5 That just means that they filed papers with the State Department
6 of Assessment and Taxation incorporating their company.

7 Mr. Mitchell operated as the sort of producer or
8 promoter for this company, and Mr. Harris was the lead singer
9 and/or rapper, I should say perhaps, and also the most important
10 author of lyrics for the rap music.

11 Mr. Mitchell and Mr. Harris produced CD's which they
12 sold themselves on the streets of Northwest Baltimore, in the
13 Park Heights area, and in West Baltimore. They had some other
14 guys who worked for them who used to sell their CD's for them,
15 also. They performed in some local clubs in the area.

16 But this was not really a money-making business for
17 them. It cost money, in fact, to rent studio time and to produce
18 these CD's. So they continued to traffic in drugs, especially in
19 the Park Heights area. And they also continued to commit
20 robberies when they needed to.

21 Ladies and gentlemen, on February 17th of 2002, Mr.
22 Mitchell decided to do something to further his rap music
23 business. He and his cousin, Donte Sands, whose name appears in
24 that red box at the bottom of the organizational chart because he
25 was involved in the narcotics business with Mr. Mitchell, and he

1 was Mr. Mitchell's cousin, Donte Sands and Mr. Mitchell went to a
2 night club called Hammerjacks over here on Guilford Avenue, just
3 half a dozen blocks from here. They went there because there was
4 a birthday party for a Baltimore guy who made good in the rap
5 music business, Kevin Lyles, who became the president of Def Jam.
6 Rose up from being an intern to become the president of Def Jam.
7 Had a birthday party on that date at Hammerjacks. So this event
8 attracted a lot of the rap groups from Baltimore to come and
9 participate in the festivities.

10 One of the groups that came to attend was another drug
11 organization in Northwest Baltimore, members of what I'll call
12 the Rice organization were there. You see the names of some of
13 the members of this crew in the chart on the far right.

14 Shortly after midnight, about 1:15 in the morning on
15 February 18th, 2002, a fight broke out on the dance floor at
16 Hammerjacks, and Mr. Mitchell pulled out a knife and stabbed
17 repeatedly three members of the Rice organization -- Raeshio
18 Rice, Darryl Alexander, and Eric Clash. He, of course, had to
19 run out of the night club because there were lots of other
20 members of the Rice organization there and they chased after him.
21 And about two blocks north of Hammerjacks, in a parking lot
22 underneath I-83 over there on Guilford Avenue, they caught up
23 with Mr. Mitchell and Donte Sands and beat them up very badly.
24 In fact, it was probably the police cars converging on the scene
25 to investigate the stabbings at Hammerjacks that saved Mr.

1 Mitchell's life on that occasion. He was found unconscious on
2 the floor of the parking lot, on the parking lot, with a knife
3 immediately next to him, and Donte Sands was also there.

4 Mitchell was only briefly hospitalized and he wasn't
5 arrested because the three people that he stabbed in the Rice
6 organization refused to talk to the police. This was a dispute
7 that was going to be resolved but it wasn't going to be resolved
8 by going to the police. The Rice organization was a very violent
9 narcotics organization and everyone knew how they would settle
10 this matter. They would settle it the way drug organizations
11 settle their disputes; they would put out a hit on Mr. Mitchell.

12 Rumors were everywhere that the Rices had put out a
13 contract on Mr. Mitchell. Mr. Mitchell certainly believed these
14 rumors. And in fact, Mr. Gardner and Mr. Martin believed these
15 rumors, too. They were at risk, also, because they were tight
16 with Mr. Mitchell.

17 You will hear that Mr. Martin and Mr. Gardner got into
18 a car and went out to a boot camp facility where Darryl Bacon was
19 incarcerated at that time, to warn him that there was a contract
20 out on Mr. Mitchell as a result of this stabbings incident at
21 Hammerjacks.

22 Before very long, Mr. Mitchell decided that he'd
23 figured out who it was that took the contract on him. He got a
24 call from an old friend and associate of his named Oliver
25 McCaffity, also known as Woody, about a gun transaction. Woody

1 wanted to either buy a gun or sell a gun. It's not clear which.

2 But in any case, Woody, Mr. McCaffity, was also a drug
3 trafficker and also had a history of some violence. He was also
4 an employee of Hasim Rahman, the heavyweight champion from
5 Baltimore. And he operated, McCaffity operated a clothing store
6 called Dreams over here on Eutaw Street that was owned by Hasim
7 Rahman.

8 Mr. Mitchell decided that it was McCaffity who was
9 going to kill him and he was going to do it in the context of
10 this gun transaction. He would show up to do the gun transaction
11 and then kill Mitchell. He was the perfect person to do the job
12 because he knew Mitchell and he could get close to Mitchell.
13 Mitchell would trust him and let his guard down and that would
14 permit McCaffity to kill him without anyone else being around.

15 So Mitchell decided on a preemptive strike. He decided
16 he would go through with the gun transaction but instead would
17 kill Mr. McCaffity before McCaffity had a chance to kill him. He
18 would set up the transaction by using his cell phone to direct
19 Mr. McCaffity where to go on the streets of Park Heights and then
20 Mr. McCaffity would be killed.

21 What Mr. Mitchell did was station Mr. Harris in the
22 4500 block of Finney Avenue, and got on his cell phone, which was
23 subscribed, the service for the phone was subscribed in the name
24 of some company that didn't have anything to do with Mitchell.
25 So Mitchell believed that the calls could not be traced to him.

1 Using this cell phone, he called McCaffity and told
2 McCaffity where to go. McCaffity came driving a late model
3 Infiniti Q-45 that was registered in the name of Hasim Rahman,
4 circled around the neighborhood following Mr. Mitchell's
5 directions, and finally spotted Mr. Harris and pulled up to do
6 this gun transaction.

7 Mr. Harris climbed into the back seat of the car. And
8 you can imagine his surprise when he discovered that McCaffity
9 was not alone. He had a woman next to him in the passenger seat
10 to his right, a woman named Lisa Brown.

11 Mr. Harris pulled out a gun and shot them both in the
12 back of the head. Probably shot McCaffity first because Lisa
13 Brown had time to hold her hand up like this (indicating), as if
14 she were warding off the shot. And the bullet actually went
15 through the palm of her hand before it hit her neck.

16 Both of these two victims were killed by .38 caliber
17 weapons, but we don't know whether one gun was fired or two guns
18 fired. It's possible that two people climbed into the back seat
19 of the car. In any case, Mr. Harris was one of them.

20 He got out of the car using the driver's side rear door
21 and he slammed it shut. When he did so, Mr. McCaffity's foot
22 came off the brake and the car rolled downhill. This is a very
23 secluded area in Park Heights. It rolled downhill and crashed
24 into a tree.

25 Mr. Harris then walked to a nearby house where he and

1 Mr. Mitchell often hung out, a house up here at 2913 Edgecombe
2 Circle, which is only a couple of blocks away from the scene on
3 Finney Avenue where the shooting took place. And he just hung
4 out there while the police investigated the crime scene where the
5 murder occurred.

6 Ladies and gentlemen, was Mr. Mitchell really so smart?
7 Was he correct that McCaffity was showing up there that night to
8 kill him? I suggest to you that it's practically inconceivable.
9 The evidence will show that there was no gun found in McCaffity's
10 car. Now, it's possible that Mr. Harris or Mr. Mitchell removed
11 a gun from the car. Perhaps McCaffity had a gun and they took it
12 with them when they left.

13 But a much more compelling reason why McCaffity wasn't
14 there to commit a murder is that he never would have done a hit
15 driving a car registered in the name of Hasim Rahman, his
16 employer. He never would have done that because it would have
17 made Hasim Rahman the focus of a homicide investigation. And
18 ladies and gentlemen, above all, he never would have shown up to
19 do a hit with his girlfriend sitting next to him in the front
20 seat. He had just been to a movie with Lisa Brown. He was on a
21 date.

22 Don't get me wrong. It's quite possible that the Rice
23 brothers did put out a hit on Mr. Mitchell. They certainly
24 discussed it. It's possible that they did it. It's possible,
25 it's even possible that McCaffity was the guy they were hoping

1 would take the hit and carry it out. But what seems almost
2 certain is that when McCaffity showed up there that night, he had
3 no intention of killing anyone.

4 Because this occurred in Hasim Rahman's car and because
5 it was such a gruesome double murder, this incident had a lot of
6 news coverage in Baltimore back at the time. But Mr. Mitchell
7 and Mr. Harris believed they'd committed the perfect crime.
8 There were no eyewitnesses. It happened in such a dark, secluded
9 spot late at night that there was no one around. Mr. Mitchell
10 believed the phone calls that set up this hit could never be
11 traced to him.

12 And they decided that they would use this same
13 technique to commit another similar crime very soon thereafter,
14 within a few weeks. They planned to do another homicide, double
15 homicide. This time the victims were to be the Wyche brothers,
16 Darryl and Anthony Wyche, two rather large-scale drug dealers in
17 Randallstown, from whom Mr. Gardner and Mr. Martin and Mr.
18 Mitchell had all been supplied with drugs for many years. They
19 grew up with the Wyche brothers. They'd known them ever since
20 they were kids.

21 The Wyche brothers, of course, would have a lot of
22 money and they would have a lot of drugs. And they would be
23 ready targets because they trusted these defendants. They would
24 let the defendants get close to them. They would let their
25 guards down. And they could be killed for that reason very

1 easily with no one else around.

2 The crack that Mr. Mitchell sold in Pennsylvania, in
3 Altoona, was made with cocaine that he bought from Darryl Wyche.

4 It would not suffice for this operation to simply use
5 Shelton Harris. Darryl Wyche generally drove around with other
6 people, his brother or one of his right hand men you'll hear
7 about, Dwayne Denham and Claudus Lassiter, two of Darryl Wyche's
8 right-hand men who were often with him. And so from the
9 beginning, Mr. Gardner and Mr. Martin were part of this scheme,
10 also.

11 Mr. Martin had just gotten out of the Volunteers of
12 America halfway house a few weeks earlier. He had the foresight
13 on March 24th, 2002, the date that they set up for this drug
14 transaction they were going to do with the Wyche brothers, he had
15 the foresight to set up an alibi for himself. He went to a movie
16 theater and he bought two tickets to a movie called Blade II.
17 The second ticket was going to be for his girlfriend, Lakeisha
18 McCoy, who agreed to be his alibi witness. And he knew that the
19 drug transaction, where this robbery and murder would occur,
20 would take place during the playing of this movie. In fact, he
21 would be wrong about that. But that's what he planned, at any
22 rate.

23 Mr. Mitchell then called Darryl Wyche for the final
24 time to tell him where to meet. He used a cell phone, a
25 different cell phone, but one not registered in his name, not

1 subscribed to in his name. And he directed the Wyche brothers to
2 go a secluded location in Park Heights late at night, just as he
3 had done with Oliver McCaffity and Lisa Brown. And on this
4 occasion, he directed them to the 4400 block of East Wabash
5 Avenue, which is an industrial area that's completely deserted at
6 night in Park Heights.

7 Ladies and gentlemen, when Darryl Wyche had left home
8 that evening, he had with him a book bag that he always used in
9 his drug trafficking. In his book bag he had over \$20,000 that
10 his wife had counted out for him. He had a substantial quantity
11 of cocaine. He had some cell phones. And he also had electronic
12 scales that he always used in his drug business. This was a book
13 bag that he always used.

14 Also, he had, he actually went to Washington that night
15 before he, to do a drug deal, before he, before he was going to
16 meet with Mr. Mitchell. And he drove to Washington in another
17 car. But when he came back, he switched cars. And so he wound
18 up in a white Honda station wagon.

19 In the white Honda station wagon, he had \$5700 in the
20 console area between the two front seats. He also had a large
21 quantity of cocaine and some heroin concealed in the trunk
22 compartment of the car.

23 When he got back from Washington with his friend Dwayne
24 Denham, he went to a party in Randallstown for a little while and
25 he met up there with his brother Anthony, or Pete as he was

1 called. And it was there that he got the phone call from Mr.
2 Mitchell telling him where exactly to go for this drug
3 transaction that they had previously spoken about.

4 Mr. Denham, who had been with Mr. Wyche, Darryl Wyche,
5 just went home at that point because he wasn't going to be
6 needed. The Wyche brothers didn't need him because they were
7 going to meet somebody that they'd grown up with, somebody that
8 they trusted.

9 Pete drove the car. He drove the white station wagon
10 to the 4400 block of Wabash Avenue, and Darryl was riding in the
11 front passenger seat. When they got there, one or two of the
12 defendants climbed into the back seat, just as in the prior
13 double murder, and both of them were shot in the back of the head
14 in exactly the same way that Oliver McCaffity and Lisa Brown were
15 shot.

16 We know in this case that only one firearm was used.
17 There are five bullets shot and all five were shot, a ballistics
18 expert will tell you, by the same firearm.

19 The defendants then took the book bag. They did not
20 take the \$5700 in the console between the two front seats. They
21 didn't open the trunk and pull out the cocaine or the heroin.
22 They didn't even go through the pockets of the Wyche brothers.
23 They just grabbed the book bag and ran, or rather they drove
24 away, actually. They had another car there and they drove away
25 from the scene.

1 And here's where something happened that you would
2 think only could happen in a Hollywood movie or something.
3 They're going through the book bag in the car looking at their
4 loot, just as you might imagine they would do. And one of them
5 pulls out a cell phone and inadvertently pushes a button, and it
6 speed dials Darryl Wyche's mother-in-law's house, a very nice
7 lady named Irene Magginson. Mrs. Magginson didn't answer the
8 phone, but the call kicked over to the voice mail. And the
9 result was that the next four and a half minutes of conversation
10 in the car was recorded on Irene Magginson's voice mail.
11 Unfortunately, it's not a very clear conversation but you can
12 make out fragments of what the defendants say in the car as
13 they're leaving the scene.

14 You can hear, for example, one of them complain that
15 they had failed to go through their pockets, sort of bemoaning
16 the fact. You will hear them talk about the scales. They have
17 new scales. As they are going through the book bag, they pull
18 out the scales. You will hear one of them complain that his ears
19 are still ringing from the noise in the car. And then he
20 imitates the murder itself by making five sounds, buck, buck,
21 buck, buck, buck, and then he says, "They both fucked." Excuse
22 my language. There's going to be a lot of bad language in this
23 case, ladies and gentlemen.

24 Also, you will hear the name "Wayne" used in the course
25 of this conversation. That's Shelly Martin's middle name and

1 also a nickname that he used.

2 And finally, you will hear at the end of the
3 conversation Mr. Mitchell say, "I'm a gonna call your house,
4 Shorty." And the toll records will show that a few seconds later
5 Mr. Mitchell's cell phone placed a call to 205 North Amity
6 Street, the residence of Shelton Harris here in Baltimore.

7 The police soon focused on Mr. Martin, Mr. Gardner, and
8 Mr. Mitchell as suspects in this case. And they knew, of course,
9 that Mr. Mitchell was probably, or they believed he was a strong
10 suspect in the McCaffity/Brown murder at this time, too, and they
11 decided they had to take him off the street. They wanted to
12 arrest him, but not for the murders. They wanted to continue the
13 investigation of the murders without Mr. Mitchell suspecting that
14 they were investigating him for the murders because they wanted
15 to be able to continue to gather evidence without him having an
16 opportunity to destroy it or tamper with witnesses or do anything
17 like that.

18 So Mr. Mitchell was arrested on two open warrants. One
19 was the open warrant from Altoona, Pennsylvania, that Mr.
20 Mitchell had skipped out on two years earlier. The other was a
21 new warrant that was issued for the stabbings at Hammerjacks.
22 The detective who investigated that case thought he had evidence,
23 even though the victims weren't cooperating, thought he had
24 enough evidence to charge Mr. Mitchell.

25 And so on April 1st, 2002, officers and agents arrested

1 Willie Mitchell as he was driving to the Wyche brothers' funeral.
2 He had in his, strapped to his right ankle, underneath his pants
3 leg, a fully loaded 9 millimeter semiautomatic firearm. And so
4 Mr. Mitchell was out of the picture after April 1st.

5 Mr. Gardner and Mr. Martin actually did go to the Wyche
6 brothers' funeral. And you will hear about the commotion that
7 that produced. They didn't stay for long at the funeral.

8 Mr. Gardner and Mr. Martin, now operating without Mr.
9 Mitchell, turned their attention to doing some new heists, some
10 new robberies. And they allied this time with Will Montgomery
11 and Aaron Holly, these two guys I've already mentioned, whom they
12 had dealings with often in the past. And they planned to do a
13 couple of more robberies of drug dealers.

14 The first plan they had was to rob a drug dealer named
15 Goose, Sherman Kemp, who's one of the suppliers listed on that
16 chart. Goose had been supplying these guys with drugs for quite
17 a while. And when Mr. Martin got out of the halfway house, he
18 needed a job because he was on federal supervised release. And
19 it was Goose, Mr. Kemp, who gave Mr. Martin a job working at a
20 sort of nominal sporting goods store that Kemp owned on Loch
21 Raven Boulevard. Mr. Martin was therefore close to Goose and
22 could possibly figure out where he lived and helped to set up a
23 home invasion robbery of Goose.

24 The other target that they talked about was a guy named
25 Darius Spence, who was also a drug dealer. Darius Spence got to

1 know Will Montgomery because he talked to Will Montgomery about
2 taking, doing a hit on somebody else. And Will Montgomery
3 decided it would be better to do a home invasion robbery of
4 Darius Spence. And so he and Mr. Gardner and Mr. Martin and
5 Aaron Holly developed a plan to do precisely that.

6 Either operation would require, first of all, that they
7 figure out where these guys lived. Drug dealers are very careful
8 about letting people know where they live. They want to conceal
9 that at all costs because they can so easily be the victims of
10 home invasion robberies. They keep money in their houses. They
11 may even keep drugs in their houses. So they try to conceal
12 where they live. It would take time to figure out where these
13 guys lived.

14 Now, there were lots of rumors that Mitchell and Martin
15 and Gardner were involved in the homicide of the Wyche brothers.
16 Mr. Mitchell at this time is locked up, remember, and he knows he
17 has a big problem. The phone that he used to set up the Wyche
18 brothers' murder was not registered in his own name. He didn't
19 have the phone service subscribed to in his own name. But it was
20 subscribed to in the name of Jacquette Smith, who was his baby's
21 mother. So he didn't distance himself enough from that phone.
22 It could be traced to him.

23 Moreover, the gun was seized by the police when he was
24 arrested back on April 1st. So he knew he had a problem. He
25 knew the police would figure out that the guy who was calling the

1 Wyche brothers numerous times prior to their deaths was going to
2 be Willie Mitchell.

3 By April 17th, 2002, the police had enough evidence to
4 charge both Mr. Mitchell and Mr. Martin with the Wyche brothers'
5 homicide. They brought Mr. Mitchell over to police headquarters
6 and presented him with the arrest warrant. And Mr. Mitchell said
7 he wanted to make a statement. The Homicide detectives gave him
8 his Miranda warnings twice, tape recorded them, made it perfectly
9 clear that Mr. Mitchell didn't have to give a statement of any
10 sort. But he wanted to make a statement. He was eager to make a
11 statement. And you will hear this statement, ladies and
12 gentlemen.

13 It's a remarkable statement because what Mr. Mitchell
14 does in this tape recorded statement is admit the whole method or
15 modus operandi that he used in the Wyche brothers' murder. He
16 admitted that he knew Darryl and Anthony Wyche. He admitted that
17 he got drugs from them. He admitted that he was on the phone
18 with them in the couple of hours preceding their murder numerous
19 times. He admitted that the phone number that the police
20 suspected he was using was, in fact, that he was using that
21 number. He admitted that he was directing them to meet with a
22 third party in Park Heights near the actual location where they
23 were killed. And he admitted that this third party actually
24 killed the Wyche brothers.

25 Now, of course, he denied knowing that the third party

1 was going to kill the Wyche brothers. And he did not identify
2 this third party as any of his codefendants. He said that the
3 guy he directed to do this killing was a guy named, or the guy he
4 directed to do this meeting with the Wyche brothers, for purposes
5 of doing a drug transaction, was a guy named L, the letter L.
6 And he didn't know anything about L. He didn't know L's name.
7 He didn't know where L lived.

8 The point was to send the police on a sort of wild
9 goose chase. He thought he was telling the police what they had
10 already figured out and trying to make it consistent with his
11 innocence of any involvement in this murder.

12 In fact, the toll records will show that Mr. Mitchell
13 was indeed on the phone a lot with the third party in a period
14 meeting up to the period of the Wyche brothers. He was on the
15 phone with Shelly Wayne Martin during that time period.

16 I mentioned before, ladies and gentlemen, that it's an
17 advantage if you're planning on committing murders or robberies
18 to pick a target who is somebody you know and who will trust you.
19 And there's no doubt that that's true. But also's also a big
20 drawback, ladies and gentlemen, because if you target people you
21 know, they will have your phone numbers in their cell phones, in
22 the directories, in the contacts directories. So even though
23 these defendants could try to conceal their ownership of phones
24 and have them registered in other people's names and that sort of
25 thing, their victims have their phone numbers listed next to

1 their names right in their cell phones.

2 This is why these defendants became quick suspects in
3 both of these double murders. In the Oliver McCaffity/Lisa Brown
4 murder you will hear that the police could tell from the crime
5 scene that it looked like something that was set up by directing
6 the victims via cell phone to a sort of ambush. And so the
7 police were very interested in getting McCaffity's cell phones.
8 And there were two of them right there on the car. The
9 defendants had left the two cell phones in the car.

10 They scrolled through to find out the last person that
11 McCaffity had called before he was killed and up popped the name
12 Bo because that is the guy whose, in whose name the last phone
13 call was made on Mr. McCaffity's phone before he died.

14 Now, along with Mr. Mitchell, Mr. Martin was also
15 arrested on April 17th, 2002. In fact, Mr. Gardner was also
16 locked up for a few days around this time, but just for a
17 probation violation. And he was very soon released back on to
18 the street.

19 He found his two colleagues in these robbery plans that
20 he had going, Mr. Montgomery and Mr. Aaron Holly, and needed
21 money ever more than, even more than he had before because he now
22 wanted to bail out Mr. Martin and also get a lawyer for Mr.
23 Martin. He needed money more than ever.

24 And it wasn't going to be easy any more to rob this guy
25 Goose because it was Martin who had the connect to Goose. It was

1 Martin who was working in Goose's store, the All County Sports
2 Store. And so these three guys put the Goose operation on the
3 back burner and focused on Darius Spence.

4 They spent several weeks, first of all, figuring out
5 where Darius Spence lived, and secondly, conducting surveillances
6 of his residence, which was an apartment, at 8618 Bramble Lane in
7 Randallstown.

8 They conducted surveillances because they wanted to
9 know the habits and routines that Darius Spence and his wife,
10 Tonya Jones Spence, had so that they could conduct this home
11 invasion robbery at the best possible time.

12 Finally, on June 7th, 2002, these three men, Mr.
13 Gardner, Mr. Montgomery, and Aaron Holly, who was a juvenile
14 still at the time, rode out to Bramble Lane, ready to do this
15 home invasion robbery. They rode out in Mr. Gardner's car. But
16 Montgomery stayed in the car in the parking lot while the other
17 two went upstairs.

18 Mr. Montgomery knew Tonya Jones Spence and would be
19 recognized by her. And so he waited in the car. Mr. Montgomery
20 (sic) and Mr. Holly, each armed with a handgun, went up to just
21 knock on the door and tried to push their way into the apartment
22 after Tonya Jones Spence answered the door. That was the plan.

23 And about 4:30 in the afternoon, when Tonya Jones
24 Spence came home from work, that's when they set out to do this
25 operation. Darius Spence wasn't home yet. But they planned to

1 tie up and blindfold and gag Tonya Jones Spence and just wait for
2 Darius to show up. Once they completed tying up Tonya, they
3 would bring Mr. Montgomery up to the apartment and just wait for
4 Darius to show up. And that's when they would find out where all
5 the money was. And they would then kill Darius Spence and they
6 would kill Tonya Jones, Spence, too, if they felt they needed to.

7 Something went wrong, ladies and gentlemen. They
8 couldn't get in the door just by knocking on it. They had to
9 break down the door, Mr. Gardner and Mr. Holly did. Tonya Jones
10 Spence retreated to the balcony. She tried to climb over the
11 balcony or jump off the balcony, while Mr. Holly or Mr. Gardner
12 was firing at her. She dropped to the ground about 15 feet or so
13 and she probably injured herself because she didn't try to run
14 once she got to the ground. She crawled under the first floor
15 balcony.

16 Mr. Holly and Mr. Gardner ran down the stairs of the
17 apartment building, out the front door, found where she was, and
18 one of them shot her two times, killing her. There were children
19 playing on the lawn between the apartment buildings when this
20 happened.

21 They took Tonya Jones Spence's cell phone and went off
22 running, looking for Mr. Montgomery, who was supposed to be
23 parked in the parking lot. And imagine their dismay when he
24 wasn't there. Mr. Montgomery had decided to move to another
25 parking lot in the same apartment complex. And he was in

1 walkie-talkie communication with Holly and Gardner, trying to
2 explain to them that he had done this and where they should go
3 to. But the police were already converging on the scene. Mr.
4 Holly and Mr. Gardner panicked. They took off running across Old
5 Court Road and down Carlson Lane.

6 They ran down Carlson Lane, crossed the street, nearly
7 ran into a moving car at that point, and then ran into a big
8 wooded area on the other side of Carlson Lane. They stopped long
9 enough in the wooded area to partially bury the guns that they
10 had, two guns. They also buried or concealed with leaves and
11 rocks and stuff certain items of clothing that they had that
12 could be easily recognized.

13 They had latex gloves on because they wanted, of
14 course, to avoid leaving fingerprints. And so they left the
15 latex gloves in woods, also. And they left Tonya Jones Spence's
16 cell phone in the woods. The cell phone was actually the only
17 thing they stole in this whole robbery operation. Perhaps they
18 had finally figured out that they had to take their victims' cell
19 phones.

20 But they left it in the woods and Mr. Holly and Mr.
21 Gardner emerged on the other side of the woods. They tried to go
22 up to a lady's house, saying they needed to use the phone because
23 their car had broken down. But the police were all over the
24 neighborhood at that time. They spotted Mr. Gardner and Mr.
25 Holly and they arrested them. This time both defendants were

1 arrested leaving the scene of the crime.

2 Mr. Montgomery, who was riding around in his car
3 looking for these guys, gave up eventually and just drove away.

4 So far as we know, Shelton Harris had no role in this
5 particular operation. He was without his two closest partners in
6 crime, Mr. Martin and Mr. Mitchell, whom he called Weaze and Bo
7 respectively. They were both locked up. But Mr. Harris could
8 still communicate with them.

9 And you will hear, for example, it was around this time
10 that Mr. Mitchell wrote a letter to a guy named TM, who is on
11 that chart, also, one of his colleagues, TM or Mark Herbert, Tony
12 Montana was his nickname, directing Mr. Harris to commit a hit on
13 a guy named Claudus Lassiter, the right-hand man of Darryl Wyche,
14 whom Mitchell blamed for his getting implicated in the murder of
15 the Wyche brothers.

16 You will hear that this hit never took place because
17 Lassiter got warned about it. But Mr. Harris was still out
18 there, still communicating with these guys.

19 He was also selling drugs during this time period, this
20 few weeks, in May and June of 2002. He also was recording rap
21 music on CD's. He wanted to produce a new CD. They'd already
22 produced a couple of CD's. But they had one more that they were
23 working on.

24 Mr. Harris wrote and sang many of the songs. And
25 you're going to hear some of these songs. In these songs he

1 repeatedly sends out greetings to Bo and Weaze, telling them to
2 hold their heads high even though they're on lockdown. He has
3 two overriding concerns or worries in these songs or raps. One
4 is the concern he had about the Rice organization. He thought
5 that the guys in the Rice organization were still looking for
6 them, still beefing with them, still out to revenge the stabbings
7 of Hammerjacks. And he was also concerned about the homicide
8 detectives who were investigating these two double homicides.

9 And so the songs are full of threats, threats directed
10 at the members of the Rice organization and threats also directed
11 at snitches, people whom he thought might be cooperating or
12 willing to tell the police anything they knew about the two
13 double murders. These are the two themes of many of these rap
14 songs. And you're only going to hear some small samples of some
15 of these raps.

16 They illustrate one of the paradoxes or problems of an
17 urban drug organization. On the one hand, guys in these
18 organizations don't want people to tell on them when they commit
19 crimes. On the other hand, they need to be feared. They need to
20 be feared like the air they breathe. And so they need to have
21 people be aware of the violence they're capable of and the
22 violence that they've already committed.

23 And so you'll see in these raps they're full of
24 boastful claims about the people that Harris and his crew have
25 shot in the head. In a sense, Mr. Harris and his colleagues had

1 to tell on themselves and Harris did so ad nauseam in these
2 songs.

3 And you will hear that he gets quite specific. He
4 tells about how Bo and one other guy went to the party for Kevin
5 Lyles, and even though it was 2 against 12, Bo stabbed them up.
6 And then Harris refers directly to the Oliver McCaffity murder.
7 Sunday night at Lyles party when it all went down, I wasn't there
8 but if I was it would have been more clowns stabbed and dragged
9 out of the club, gagged and bagged, best believe we gonna chase
10 y'all down and shake y'all down. It's Baltimore. We know where
11 you at. Twelve of y'all against two of my cats. You get the
12 ruge to your back. Zapped out in a club when you was drunk on
13 liquor. But when we catch you niggas sober, bet you chumps gonna
14 shiver. That's the truth. Your man dead. That's the proof.
15 You should have never let my man get loose. I ain't playing, you
16 better listen, Mo. And then there's another passage in the same
17 song.

18 Dress up in all black and show you what this Tec will
19 do. Watch your brains fly all over the bitch next to you. Home
20 boy, it's up to you. I could put this pump to you, then start to
21 pumping you up like an inner tube. Send shots that will rip up
22 the end of you, leave you all fat and bloated, you know I keep
23 the Mac loaded. And I like to clap rodents. That's why Bo and
24 Weaze on lock now and every day on lockdown. Niggas getting shot
25 down for running their mouth, clown.

1 Ladies and gentlemen, gangster rap is frequently
2 violent like this, but this is a very particular kind of gangster
3 rap. In the first place, the audience for this music is not the
4 whole country. It's not even the whole local Baltimore. These
5 guys knew where they sold their CD's and where they performed in
6 clubs. The audience for this music was Northwest Baltimore. It
7 was Park Heights and parts of West Baltimore. Their audience is
8 very different from typical gangster rap music that you may have
9 heard.

10 Moreover, these are specific events that they're
11 singing about and they're specific people that they're singing
12 about and real events that they're talking about. And these
13 songs were sung and these raps were written in the context of
14 other acts of witness intimidation and violence that you're going
15 to hear about. There's nothing fake about these rap lyrics.

16 If you listen to these raps, as you will later on, you
17 may get the idea that this was a very hierarchical organization
18 and that Mr. Mitchell was a sort of general and that the other
19 people in the group were like members of an army battalion with
20 different ranks below him. This would be misleading. It wasn't
21 nearly as fancy as all that. It is true that Mr. Mitchell
22 assumed a leadership position for many, many things, many times.
23 And Mr. Harris certainly viewed him as his leader. But really,
24 this was a crew of mere equals who formed different combinations
25 for doing different things at different points in times. And

1 often the combinations included these other guys who aren't on
2 trial here. People like Darryl Bacon and Montgomery and the
3 other names that I've given you.

4 In a way, this was inevitable, the combinations had to
5 be different because it was so common for one or more of these
6 guys to be locked up at any given point in time.

7 But the great strength of this crew, ladies and
8 gentlemen, is its continuity. No matter what happened to these
9 guys, no matter how long they were locked up for, no matter how
10 many women they had in their lives or what else happened to them,
11 they always got back together. They always worked together.
12 They've been together since they were kids, except for Mr.
13 Harris, who joined up with this crew only in 2000. He's only
14 been around now for eight years. But they have gotten back
15 together and worked together for an enormously long time now.

16 Shelton Harris got locked up shortly after the Tanya
17 Jones Spence murder, a couple of weeks later. He was living in
18 West Baltimore, as I said before, with certain members of his
19 family, at 205 North Amity Street, in the Poe Homes projects.

20 One night the Housing Police came and raided his house.
21 They were looking for evidence of some other crime, some crime
22 that Mr. Harris wasn't even involved in. But they found in Mr.
23 Harris's room a large quantity of crack and packaging materials
24 and other drug paraphernalia. And Mr. Harris admitted that it
25 was his. And he even claimed that he was selling his drugs in

1 Park Heights, not in the Poe Homes, so that, perhaps thinking the
2 Housing Police wouldn't think it was such a serious violation.

3 But the result was that Mr. Harris spent over a year in
4 jail at that point, and meeting up again with Mr. Mitchell while
5 he was in jail. When he finally got out of jail in the latter
6 part of 2003, he still was not charged with any of these double
7 murders. But by this point federal agents had gotten involved in
8 the investigation. And people had come forward and identified
9 Mr. Harris as a participant in these crimes.

10 So the agents and the detectives went back to the crime
11 scene evidence and they recovered the latent fingerprints that
12 had been taken off of Oliver McCaffity's car, that Q45 that was
13 registered to Hasim Rahman. And sure enough, they matched a palm
14 print on the exterior rear driver's side window to Shelton
15 Harris's palm print.

16 The agents decided to arrest Mr. Harris for his
17 involvement in that double homicide and for other crimes. And
18 they found out he was living on Seamon Avenue, which is actually
19 not on this map. It's down in Cherry Hill, down here. He was
20 living with a couple of people down there. And they went there
21 to execute a search warrant. They arrested Mr. Harris actually
22 somewhere else but they executed a search warrant at Seamon
23 Avenue. And they recovered his loaded .45 caliber semiautomatic
24 sitting on top of a notebook full of rap lyrics that he had
25 written in the apartment, together with other evidence.

1 From this point on, all four of the defendants were
2 locked up. But being locked up did not bring an end to this
3 conspiracy.

4 I told you already about how Mr. Mitchell ordered a hit
5 from jail. Mr. Harris also assaulted one of the witnesses in
6 this case in June of 2005 in the marshal's lockup, right
7 upstairs, on the sixth floor of this building. Somehow they were
8 placed in the same bullpen area together and Mr. Harris
9 immediately went over and started punching this guy who was in
10 his view a snitch. And the whole thing was caught on videotape
11 because the marshals have a surveillance camera that was aimed at
12 the cell. And you will have an opportunity to see this when we
13 get deeper into the trial.

14 The defendants have also been able to orchestrate their
15 actions while they've been locked up. They've often been housed
16 together. And even when they have not been housed together,
17 they've still been able to orchestrate their actions because
18 they've used intermediaries to communicate with one another.

19 They've tried to recruit new members for their crew.
20 They've planned new crimes for when they get out of jail. And
21 they've continued their campaign of intimidation against
22 perceived cooperators.

23 The judge told you about the Stop Snitching video.
24 Actually, it's the Stop Snitching Two video. It came out just
25 months ago. There's a scene where the narrator of the video

1 holds up a cell phone. And you can hear the voices coming over
2 the cell phone, two voices. And they say they're calling from
3 Supermax, which is where federal prisoners are housed here in
4 Baltimore City. One of these guys is Mr. Harris.

5 And they proceed to denounce three people as snitches
6 or rats. And they're three of the people that you've already
7 heard about in this case -- Darryl Bacon, William Montgomery,
8 Little Will, as he's called, and also a guy named Mark Herbert,
9 TM, Tony Montana.

10 Mr. Harris and his colleagues thought these three guys
11 were cooperating against them and they wanted to put their names
12 out there, knowing that by identifying them as snitches on this
13 video, they would expose these snitches to danger, enormous
14 danger, because they are in violation of the street code in
15 Baltimore.

16 These defendants have also repeatedly mounted
17 demonstrations in this courtroom. They have interrupted hearings
18 and taken over the microphones, denounced the proceedings.
19 They've denounced the court. They've denied the jurisdiction of
20 the court. They've denounced everybody involved in prosecuting
21 them in whatever way. All of this has on occasion made it
22 impossible to conduct proceedings in this courtroom. The
23 courtroom has had to be cleared. Proceedings have been
24 suspended.

25 The speeches that they gave during these demonstrations

1 are all very similar. They were obviously orchestrated.

2 And they've also filed pleadings with the court,
3 motions and various kinds of paper documents with the court. And
4 they're all, they all contain the same kind of language, the same
5 kind of arguments, the same kind of denunciations. So they've
6 been continuing to act in concert all throughout the courtroom
7 proceedings in this case. In a very real sense, this conspiracy,
8 this racketeering enterprise, has continued into this courtroom.

9 Ladies and gentlemen, we're here today because a
10 federal grand jury has voted to indict these four defendants on
11 19 counts. The judge went over them in some detail with you
12 yesterday. Two of them are conspiracy counts. Count One, the
13 RICO count, is actually a RICO conspiracy count. And Count Eight
14 is a narcotics conspiracy count.

15 Conspiracy means something slightly different in the
16 law from what it means to most people when they use it in their
17 ordinary conversation. In the law, conspiracy means an agreement
18 to do something illegal. It need not be a written agreement. It
19 need not even be an oral agreement. It can just be a tacit
20 understanding to do something that the law prohibits. The crime
21 itself need never be committed. Conspiracy law makes the
22 agreement to commit the crime a separate crime. So it can be
23 possible to be convicted of a conspiracy to commit a crime even
24 though the crime is never committed.

25 The other counts, Counts Two through Seven, as the

1 judge told you, the five murders in this case are charged as
2 murders in aid of racketeering. This just means this they were
3 carried out in furtherance of a racketeering enterprise. The
4 racketeering enterprise in this case is just these defendants and
5 the other guys who were part of their crew who acted together in
6 concert in committing drug offenses and violent crimes of various
7 sorts. Committing racketeering activity. Racketeering activity
8 just means the drug offenses and the violent crimes.

9 Counts 9 through 16, as the judge told you, also, are
10 firearms offenses related to the murders. They're charged with
11 possessing and discharging firearms on the occasions of the five
12 murders in this case.

13 Counts 17 and 18 respectively charge defendants with
14 possession of firearms by prohibited persons. Mr. Gardner is
15 charged with the .357 magnum that was found in the woods after
16 the Tonya Jones Spence murder and Mr. Harris is charged with the
17 .45 caliber semiautomatic recovered from Seamon Avenue at the
18 time of his arrest in 2004.

19 Finally, Count 19 charges Harris alone with witness
20 retaliation in connection with that assault on the cooperator in
21 the marshal's lockup upstairs on the sixth floor on June 13th,
22 2005.

23 Ladies and gentlemen, very quickly now. How did the
24 agents and the detectives in this case penetrate the secrecy of
25 the conspiracy, the secrecy that always surrounds a criminal

1 conspiracy, and gather the evidence that these men committed the
2 crimes with which they're charged?

3 If you watch crime shows on TV, you will be expecting
4 forensic evidence. These crime scene shows often have a little
5 drop of blood or a little fragment of dust or something like that
6 that turns out to be enormously consequential in solving the
7 crime.

8 And we're going to have some forensic evidence in this
9 case. I've already told you about the palm print, Mr. Harris's
10 palm print on the Q45. We'll also have DNA evidence because the
11 knife that was recovered next to Willie Mitchell when he was
12 lying unconscious on the parking lot under I-83 after the
13 Hammerjacks stabbings, that knife had Mr. Mitchell's DNA on the
14 handle.

15 We'll of course have chemists who will come in and tell
16 us about the analysis of the drugs in this case.

17 We'll have ballistics experts come in. There's a very
18 interesting piece of ballistics evidence that you're going to
19 hear that connects the firearms that was used in the Tonya Jones
20 Spence murder and the murder of the Wyche brothers.

21 Both of those semiautomatic weapons, there were two
22 different weapons used in those two murders but both of those
23 weapons were used in the commission of another crime back on
24 March 11th. A man named Eric Lee and a man named Jason Epps were
25 shot and two firearms were used in that offense. And the two

1 firearms, one of them turned out to be the murder weapon in the
2 Tonya Jones Spence murder and the other one was the murder weapon
3 was the one that killed both of the Wyche brothers.

4 Since this is real life, ladies and gentlemen, and not
5 television, the great bulk of the evidence that you're going to
6 hear in this case is not forensic evidence. It comes from
7 witnesses. So you're going to have to use your heads throughout
8 this trial.

9 You'll hear, first of all, from some civilian
10 witnesses, including some eyewitnesses to some of the crimes that
11 are at issue here in this case, people who just happened to be
12 near the scene and are willing to come forward and tell you what
13 they know about it.

14 Secondly, there are cooperators, people who are
15 actually in the racketeering enterprise, in the conspiracy
16 itself, who are for whatever reason also willing to come into
17 court and tell you what they know about it. Sometimes these
18 people have plea agreements with the government, according to
19 which they have pled guilty to charges and hope to receive credit
20 for their cooperation when they're sentenced sometime later, or
21 some kind of benefit for their cooperation. Often these guys, of
22 course, are eyewitnesses, too, to the crimes that they're
23 describing.

24 The third kind of evidence results from the fact that
25 over the years these defendants were periodically just arrested

1 by the police when they were transporting drugs or guns. And you
2 will have police officers come in and tell you about those
3 occasions when the defendants were arrested.

4 And then, of course, we have physical evidence from the
5 execution of search warrants when these defendants were arrested
6 or when their residences were searched. Much of this is
7 incriminating evidence. We also have some subpoenaed documents
8 and other kinds of stuff.

9 There's a lot of evidence, ladies and gentlemen, that
10 we're not putting on in this case. If some crime scene
11 technician recovered 14 latent fingerprints at a scene, for
12 example, and only one of them could be matched to the defendants
13 and the others either could not be matched to anybody or were
14 just matched to the victims of the crime or something like that,
15 we're not going to introduce all of the evidence that's not
16 meaningful for this case. Defense attorneys have all the
17 paperwork in this case. The government's not hiding anything.
18 We're trying to get this trial over with long before
19 Thanksgiving, and we're going to make our best effort to do that.

20 In sum, you're going to be hearing from forensic
21 experts, co-conspirators, civilian witnesses, including
22 eyewitnesses, lots of police officers and federal agents. The
23 defense attorneys will necessarily tell you not to believe many
24 of these people or perhaps most of them.

25 But the reason why a verdict in a criminal case is left

1 up to a jury and not to lawyers, for example, is because the
2 decision about whether people are telling the truth is a common
3 sense decision that you can make by being attentive and just
4 using your common sense. It doesn't require any legal training.
5 And it doesn't require any kind of expertise at all. Just ask
6 yourselves in the back of your mind always when you're listening
7 to testimony the same questions that you always ask when you're
8 trying to decide whether you believe someone. I mean, you sort
9 of ask these questions subconsciously.

10 You ask, does this person have an incentive to lie or
11 an incentive to tell the truth? Ask yourselves, also, whether
12 the account the witness provides is inherently sensible, whether
13 it's probable or improbable. Sometimes you can tell a story just
14 doesn't hold together. And other times you can tell that it
15 does.

16 Ask yourselves if the testimony of the witness is
17 corroborated by other evidence, other testimony, by other
18 witnesses, or physical evidence or documentary evidence or
19 whatever kind of evidence.

20 Ask yourselves if the witnesses have had the
21 opportunity to observe and to hear the events that they're
22 talking about. Do they really know what they're talking about?

23 Ask yourselves if they're being evasive on the stand or
24 whether they seem to be straightforward. You can often tell a
25 lot just by looking at body language.

1 Part of your job as jurors, ladies and gentlemen, is to
2 figure out how all of the evidence fits together and
3 interrelates. You're going to be hearing evidence weeks from now
4 that will clarify and reinforce things that you hear during the
5 first day of testimony tomorrow. So it's important to try your
6 best to try to absorb as much of the factual details as possible
7 that are about to come cascading down upon you in this trial. I
8 hope, ladies and gentlemen, that this opening will help you to do
9 that because if it does then I will have succeeded in my goal
10 today.

11 Thank you very much, ladies and gentlemen.

12 THE COURT: Thank you, Mr. Harding. Ms. Rhodes, what's
13 your pleasure?

14 MS. RHODES: Your Honor, I think at this point we'd
15 better come back tomorrow morning.

16 THE COURT: I think I agree and I'm sure the jury
17 agrees, given the lateness of the hour. It seems to me to make
18 the most sense that we reserve the defense opening statements
19 until tomorrow. So we'll call it a day at this time.

20 Members of the jury, that will conclude our court day.
21 Remember, you haven't heard any evidence. You won't begin to
22 hear the evidence until tomorrow. But we'll start tomorrow with
23 the opening statements by any of the defense counsel who wish to
24 provide opening statements. Again, they have the option of
25 either giving one now or later in the trial.

1 During this overnight recess, continue to adhere to all
2 of my instructions. Have no discussion about the case. Do not
3 conduct any investigation of any sort. Do not visit any
4 locations that might have been mentioned during the trial.

5 Tomorrow will be the one exception, I think, to the
6 rule of 9:30 starts. Because of a court activity tomorrow, we
7 will start at 10:30 rather than 9:30.

8 Now, you are still free to arrive whenever it's most
9 convenient for you. Both the jury room will be available to you
10 as well as the jury lounge upstairs on the Fourth Floor. But we
11 won't begin trial until 10:30 tomorrow. So please be in the jury
12 deliberation room, ready to proceed, at 10:30 tomorrow.

13 Please leave your note pads on your chairs and
14 remember, continue to avoid exposure to any media reports about
15 the proceedings.

16 Thank you very much, ladies and gentlemen. You are
17 excused until 10:30 tomorrow morning.

18 (Jury exits the courtroom.)

19 THE COURT: I'm sorry. Belinda, just one more thing.
20 If the jurors can just step back very quickly.

21 (Jurors reenter the courtroom.)

22 THE COURT: I will absolutely have for you tomorrow,
23 when you arrive, the schedule for the trial. And anybody who
24 needs a letter from me to your employer, please let Ms. Arrington
25 know and I'll be happy to provide a separate letter to your

1 employer explaining the schedule for the trial and when you'll be
2 needed. All right?

3 So we'll have that for you. And I should tell you, we
4 will be in session all day on Thursday of this week, from 9:30
5 until about 5. We will not be in session on Friday of this week.
6 And tomorrow you will have the full schedule for the balance of
7 the trial. Thank you.

8 (Jury exits the courtroom.)

9 THE COURT: Counsel, anything for the good of the
10 order? Okay. Thank you. We'll stand in recess until 10:30
11 tomorrow morning.

12 (Conclusion of Proceedings at 4:34 p.m.)

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REPORTER'S CERTIFICATE

I, Mary M. Zajac, do hereby certify that I recorded stenographically the proceedings in the matter of USA v. Willie Mitchell, et al., Case Number(s) AMD-04-029, on September 16, 2008.

I further certify that the foregoing pages constitute the official transcript of proceedings as transcribed by me to the within matter in a complete and accurate manner.

In Witness Whereof, I have hereunto affixed my
signature this _____ day of _____, 2009.

Mary M. Zajac,
Official Court Reporter

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